

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

In the Matter of the Accusation)	
Against:)	
)	
)	
SCOTT RICHARD MILLER, M.D.)	Case No. 06-2013-234476
)	
Physician's and Surgeon's)	
Certificate No. A 72857)	
)	
Respondent)	
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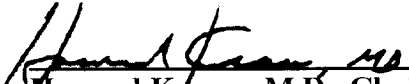
DECISION

The attached Stipulated Settlement and Disciplinary Order 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 June 3, 2016.

IT IS SO ORDERED: May 5, 2016.

MEDICAL BOARD OF CALIFORNIA



Howard Krauss, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CHRISTINE R. FRIAR
Deputy Attorney General
4 State Bar No. 228421
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-6404
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 06-2013-234476

11 **SCOTT RICHARD MILLER, M.D.**
12 **17215 Studebaker Road, Suite 300**
13 **Cerritos, CA 90703-2522**

OAH No. 2015080953

14 **Physician's and Surgeon's Certificate**
No. A 72857,

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

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

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California. She brought this action solely in her official capacity and is represented in this
22 matter by Kamala D. Harris, Attorney General of the State of California, by Christine R. Friar,
23 Deputy Attorney General.

24 2. Respondent Scott Richard Miller, M.D. is represented in this proceeding by attorney
25 Peter R. Osinoff of Bonne Bridges Mueller O'Keefe & Nichols, located at 3699 Wilshire
26 Boulevard, 10th Floor, Los Angeles, CA 90010-2179.

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1 3. On or about August 17, 2000, the Medical Board of California issued Physician's and
 2 Surgeon's Certificate No. A 72857 to Scott Richard Miller, M.D. (Respondent). This Certificate
 3 was in full force and effect at all times relevant to the charges brought in Accusation No. 06-
 4 2013-234476 and will expire on September 30, 2017, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 06-2013-234476 was filed before the Medical Board of California
 7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
 8 Accusation and all other statutorily required documents were properly served on Respondent on
 9 July 8, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 06-2013-234476 is attached as **Exhibit A** and incorporated
 11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
 14 charges and allegations in Accusation No. 06-2013-234476. Respondent has also carefully read,
 15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
 16 Disciplinary Order.

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

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
 25 every right set forth above.

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1 CULPABILITY

2 9. Respondent does not contest that, at an administrative hearing, complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 06-2013-234476 and that he has thereby subjected his license to disciplinary action.

5 10. Respondent agrees that if he ever petitions for early termination or modification of
6 probation, or if the Board ever petitions for revocation of probation, all of the charges and
7 allegations contained in Accusation No. 06-2013-234476 shall be deemed true, correct and fully
8 admitted by Respondent for purposes of that proceeding or any other licensing proceeding
9 involving respondent in the State of California.

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

13 CONTINGENCY

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

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

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1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 72857 issued
6 to Respondent Scott Richard Miller, M.D. is revoked. However, the revocation is stayed and
7 Respondent is placed on probation for seven (7) years on the following terms and conditions.

8 1. EDUCATION COURSE. Within 60 calendar days of the effective date of this
9 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
10 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
11 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
12 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
13 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
14 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
15 completion of each course, the Board or its designee may administer an examination to test
16 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
17 hours of CME of which 40 hours were in satisfaction of this condition.

18 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
19 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
20 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.
21 Respondent shall participate in and successfully complete that program. Respondent shall
22 provide any information and documents that the program may deem pertinent. Respondent shall
23 successfully complete the classroom component of the program not later than six (6) months after
24 Respondent's initial enrollment, and the longitudinal component of the program not later than the
25 time specified by the program, but no later than one (1) year after attending the classroom
26 component. The professionalism program shall be at Respondent's expense and shall be in
27 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

28 A professionalism program 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 program would have
3 been approved by the Board or its designee had the program 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 program or not later
7 than 15 calendar days after the effective date of the Decision, whichever is later.

8 3. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the
9 effective date of this Decision, Respondent shall enroll in a professional boundaries program
10 equivalent to the Professional Boundaries Program offered by the Physician Assessment and
11 Clinical Education Program at the University of California, San Diego School of Medicine
12 (Program). Respondent, at the Program's discretion, shall undergo and complete the Program's
13 assessment of Respondent's competency, mental health and/or neuropsychological performance,
14 and at minimum, a 24 hour program of interactive education and training in the area of
15 boundaries, which takes into account data obtained from the assessment and from the Decision(s),
16 Accusation(s) and any other information that the Board or its designee deems relevant. The
17 Program shall evaluate Respondent at the end of the training and the Program shall provide any
18 data from the assessment and training as well as the results of the evaluation to the Board or its
19 designee.

20 Failure to complete the entire Program not later than six (6) months after Respondent's
21 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
22 in writing to a later time for completion. Based on Respondent's performance in and evaluations
23 from the assessment, education, and training, the Program shall advise the Board or its designee
24 of its recommendation(s) for additional education, training, psychotherapy and other measures
25 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
26 Program recommendations. At the completion of the Program, Respondent shall submit to a final
27 evaluation. The Program shall provide the results of the evaluation to the Board or its designee.
28 The professional boundaries program shall be at Respondent's expense and shall be in addition to

1 the Continuing Medical Education (CME) requirements for renewal of licensure.

2 The Program has the authority to determine whether or not Respondent successfully
3 completed the Program.

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

9 If Respondent fails to complete the Program within the designated time period, Respondent
10 shall cease the practice of medicine within three (3) calendar days after being notified by the
11 Board or its designee that Respondent failed to complete the Program.

12 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
13 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
14 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
15 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
16 consider any information provided by the Board or designee and any other information the
17 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
18 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
19 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
20 psychiatric evaluations and psychological testing.

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

23 5. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
24 Respondent shall submit to the Board or its designee for prior approval the name and
25 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
26 has a doctoral degree in psychology and at least five years of postgraduate experience in the
27 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
28 undergo and continue psychotherapy treatment, including any modifications to the frequency of

1 psychotherapy, for a minimum of two (2) years or until the Board or its designee deems that no
2 further psychotherapy is necessary, whichever is later.

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

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

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

15 6. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
16 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
17 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
18 licenses are valid and in good standing, and who are preferably American Board of Medical
19 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
20 relationship with Respondent, or other relationship that could reasonably be expected to
21 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
22 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
23 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

24 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
25 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
26 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
27 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
28 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees

1 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
2 signed statement for approval by the Board or its designee.

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

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

12 The monitor(s) shall submit a quarterly written report to the Board or its designee which
13 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
14 are within the standards of practice of medicine, and whether Respondent is practicing medicine
15 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
16 that the monitor submits the quarterly written reports to the Board or its designee within 10
17 calendar days after the end of the preceding quarter.

18 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
19 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
20 name and qualifications of a replacement monitor who will be assuming that responsibility within
21 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
22 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
23 notification from the Board or its designee to cease the practice of medicine within three (3)
24 calendar days after being so notified Respondent shall cease the practice of medicine until a
25 replacement monitor is approved and assumes monitoring responsibility.

26 In lieu of a monitor, Respondent may participate in a professional enhancement program
27 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
28 University of California, San Diego School of Medicine, that includes, at minimum, quarterly

1 chart review, semi-annual practice assessment, and semi-annual review of professional growth
2 and education. Respondent shall participate in the professional enhancement program at
3 Respondent's expense during the term of probation.

4 7. PROHIBITED PRACTICE. During the first two (2) years of probation, Respondent
5 is prohibited from treating female patients. After the effective date of this Decision, all female
6 patients being treated by the Respondent shall be notified that the Respondent is prohibited from
7 treating female patients.

8 Respondent shall maintain a log of all patients to whom the required oral notification was
9 made. The log shall contain the: 1) patient's name, address and phone number; patient's medical
10 record number, if available; 3) the full name of the person making the notification; 4) the date the
11 notification was made; and 5) a description of the notification given. Respondent shall keep this
12 log in a separate file or ledger, in chronological order, shall make the log available for immediate
13 inspection and copying on the premises at all times during business hours by the Board or its
14 designee, and shall retain the log for the entire term of probation.

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

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

24 9. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
25 prohibited from supervising physician assistants.

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

1 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
2 under penalty of perjury on forms provided by the Board, stating whether there has been
3 compliance with all the conditions of probation.

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

6 12. GENERAL PROBATION REQUIREMENTS.

7 Compliance with Probation Unit

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

10 Address Changes

11 Respondent shall, at all times, keep the Board informed of Respondent's business and
12 residence addresses, email address (if available), and telephone number. Changes of such
13 addresses shall be immediately communicated in writing to the Board or its designee. Under no
14 circumstances shall a post office box serve as an address of record, except as allowed by Business
15 and Professions Code section 2021(b).

16 Place of Practice

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

20 License Renewal

21 Respondent shall maintain a current and renewed California physician's and surgeon's
22 license.

23 Travel or Residence Outside California

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

27 In the event Respondent should leave the State of California to reside or to practice
28 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of

1 departure and return.

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

5 14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
6 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
7 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
8 defined as any period of time Respondent is not practicing medicine in California as defined in
9 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
10 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
11 time spent in an intensive training program which has been approved by the Board or its designee
12 shall not be considered non-practice. Practicing medicine in another state of the United States or
13 Federal jurisdiction while on probation with the medical licensing authority of that state or
14 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
15 not be considered as a period of non-practice.

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

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

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

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

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

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

8 17. LICENSE SURRENDER. Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request to surrender his or her license.
11 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
12 determining whether or not to grant the request, or to take any other action deemed appropriate
13 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
14 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
15 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
16 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
17 application shall be treated as a petition for reinstatement of a revoked certificate.

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

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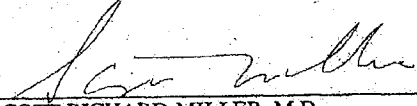
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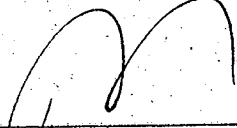
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 3/30/16 
SCOTT RICHARD MILLER, M.D.
Respondent

I have read and fully discussed with Respondent Scott Richard Miller, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/30/16 
Peter R. Osinoff
Attorney for Respondent

ENDORSEMENT

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

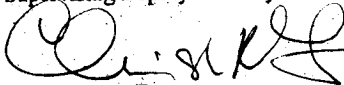
Dated: 4/1/2016 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 06-2013-234476

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 CHRISTINE R. FRIAR
Deputy Attorney General
4 State Bar No. 228421
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-6404
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

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 **SCOTT RICHARD MILLER, M.D.**
13 **17215 Studebaker Road, Suite 300**
Cerritos, CA 90703-2522
14 **Physician's and Surgeon's Certificate**
15 **No. A 72857,**
16 Respondent.

Case No. 06-2013-234476
A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about August 17, 2000, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 72857 to Scott Richard Miller, M.D. (Respondent). This Certificate was in
25 full force and effect at all times relevant to the charges brought herein and will expire on
26 September 30, 2015, unless renewed.

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28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2234 of the Code, states:

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

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

10 "....

11 "(e) The commission of any act involving dishonesty or corruption which is substantially
12 related to the qualifications, functions, or duties of a physician and surgeon.

13 "...."

14 5. Section 726 of the Code states:

15 "The commission of any act of sexual abuse, misconduct, or relations with a patient, client,
16 or customer constitutes unprofessional conduct and grounds for disciplinary action for any person
17 licensed under this division, under any initiative act referred to in this division and under Chapter
18 17 (commencing with Section 9000) of Division 3.

19 "This section shall not apply to sexual contact between a physician and surgeon and his or
20 her spouse or person in an equivalent domestic relationship when that physician and surgeon
21 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person
22 in an equivalent domestic relationship."

23 6. Section 729 of the Code states:

24 "(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any
25 person holding himself or herself out to be a physician and surgeon, psychotherapist, alcohol and
26 drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or
27 sexual contact with a patient or client, or with a former patient or client when the relationship was
28 terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon,

1 psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an
2 independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse
3 counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and
4 drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon,
5 psychotherapist, or alcohol and drug abuse counselor.

6 "(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug
7 abuse counselor is a public offense:

8 "(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county
9 jail for a period of not more than six months, or a fine not exceeding one thousand dollars
10 (\$1,000), or by both that imprisonment and fine.

11 "(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender
12 has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county
13 jail for a period of not more than six months, or a fine not exceeding one thousand dollars
14 (\$1,000), or by both that imprisonment and fine.

15 "....

16 "For purposes of subdivision (a), in no instance shall consent of the patient or client be a
17 defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching
18 any intimate part of a patient or client unless the touching is outside the scope of medical
19 examination and treatment, or the touching is done for sexual gratification."

20 7. Section 2236 of the Code states:

21 "(a) The conviction of any offense substantially related to the qualifications, functions, or
22 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
23 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
24 evidence only of the fact that the conviction occurred.

25 "....

26 "(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
27 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
28 shall be conclusive evidence of the fact that the conviction occurred."

1 8. California Code of Regulations, title 16, section 1360, states:

2 "For the purposes of denial, suspension or revocation of a license, certificate or permit
3 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
4 considered to be substantially related to the qualifications, functions or duties of a person holding
5 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
6 evidences present or potential unfitness of a person holding a license, certificate or permit to
7 perform the functions authorized by the license, certificate or permit in a manner consistent with
8 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
9 following: Violating or attempting to violate, directly or indirectly, assisting in or abetting the
10 violation of, or conspiring to violate any provision of the Medical Practice Act."

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Sexual Exploitation of a Patient)**

13 9. Respondent Scott Richard Miller, M.D. is subject to disciplinary action under Code
14 sections 2234, 726 and 729 in that he sexually exploited Patient/Victim Y.H.¹ when he engaged in
15 acts of sexual contact, including sexual intercourse, with her, while she was a patient under his
16 medical care. The circumstances are as follows:

17 10. In early September of 2012, and after sustaining a work place injury, Patient/Victim
18 Y.H. sought a psychiatric consultation from the Friedman Psychiatric Medical Group, located in
19 Culver City, California, after receiving a referral from her orthopedic surgeon.

20 11. The Friedman Psychiatric Medical Group specializes in treating and accessing
21 patients with workers' compensation claims.² At all times relevant to the allegations herein,
22 Respondent was a psychiatrist working at the Friedman Psychiatric Medical Group.

23 12. On September 10, 2012, Patient/Victim Y.H. underwent a psychiatric evaluation with
24 a psychiatrist (not Respondent) at the Friedman Psychiatric Medical Group. She was diagnosed
25 with Post-Traumatic Stress Disorder, Chronic, Industrial; Pain Disorder Associated with both

26 ¹ Initials are used to protect patient privacy.

27 ² See, <http://www.friedmanpsych.com/>: "Since the mid-1980s Dr. Friedman has served in
28 the State of California workers compensation system as Primary and secondary Treating
Physician."

1 Psychological Factors and a General Medical Condition; and Major Depression, Recurrent
2 Episode, Moderate, Non-Psychotic.

3 13. On November 1, 2012, a further diagnostic interview was conducted of
4 Patient/Victim Y.H. at the Friedman Psychiatric Medical Group. Her records note that she was
5 an eligibility worker with Los Angeles County who was attacked by a client. It is further noted
6 that she complained of anxiety, depression, phobic avoidance of situations that rekindle memories
7 of the traumatic event, preoccupation with the industrial stressors leading to this illness,
8 irritability, low self-esteem, periods of crying and sleep disturbance. As part of the November 1,
9 2012 evaluation, Patient/Victim Y.H. completed a BDI-II assessment test form on which she
10 indicated that the following statements, among others, best described the way she had been
11 feeling for the past two (2) weeks: "I feel sad much of the time;" "I feel I am a total failure as a
12 person;" "I feel guilty all of the time;" "I am disappointed in myself;" "I blame myself for
13 everything bad that happens;" "I cry over every little thing;" and "I feel utterly worthless." She
14 was assessed with Post-Traumatic Stress Disorder and Chronic Major Depressive Disorder and
15 prescribed Valium.

16 14. Patient/Victim Y.H.'s care at the Friedman Psychiatric Medical Group was transferred
17 to Respondent who conducted her psychiatric follow-up care, including prescribing her
18 medication.

19 15. On or about February 14, 2013, Respondent treated Patient/Victim Y.H. who
20 complained of, among other things, anxiety, depression, phobic avoidance of situations that
21 rekindle memories of the traumatic event, preoccupation with the industrial stressors leading to
22 this illness, irritability, low self-esteem, periods of crying and sleep disturbance. Patient/Victim
23 Y.H. again completed a BDI-II assessment test form on which she indicated that the following
24 statements, among others, best described the way she had been feeling for the past two (2) weeks:
25 "I feel sad much of the time;" "I feel I am a total failure as a person;" "I dislike myself;" "I
26 criticize myself for all of my faults;" "I cry over every little thing;" "I have lost most of my
27 interest in other people or things;" and "I feel utterly worthless." Respondent diagnosed her with
28 Major Depression, Pain Disorder due to both Psychological Factors and General Medical

1 Condition and Post-Traumatic Stress Disorder, Chronic, Industrial. He prescribed her Elavil for
2 insomnia and Valium.

3 16. On or about February 26, 2013, March 4, 2013 and April 18, 2013, respectively,
4 Respondent signed letters addressed "To Whom it May Concern" stating that Patient/Victim Y.H.
5 continues to receive treatment through the Friedman Psychiatric Medical Group and is unable to
6 return to work.

7 17. Respondent's care of Patient/Victim Y.H. on behalf of the Friedman Psychiatric
8 Medical Group continued through July of 2013. In addition to writing the above-referenced
9 letters, Respondent also managed her medications, which included prescribing various
10 medications for anxiety, insomnia and depression, including but not limited to, Valium, Klonopin
11 and Seroquel.

12 18. Respondent has admitted that while he was treating Patient/Victim Y.H. through the
13 Friedman Psychiatric Medical Group "an involvement started up between [them]."

14 19. According to Respondent, after he had treated Patient/Victim Y.H. two or three times
15 at the Friedman Psychiatric Medical Group, he and Patient/Victim Y.H. began exchanging text
16 messages that were sexual in nature and which included Respondent texting graphic photos,
17 including a photo of his penis.

18 20. Ultimately, Respondent and Patient/Victim Y.H. engaged in sexual intercourse on
19 three (3) occasions; once at a hotel and twice at Patient/Victim Y.H.'s home. Each incident
20 occurred while Patient/Victim Y.H. was still under Respondent's medical care.

21 21. According to Respondent, Patient/Victim Y.H. terminated the sexual relationship
22 with him when she misinterpreted a text he sent her. According to Respondent, he "told her that
23 [his] tongue was hurting but that it was worth it, and what I'd been trying to communicate to her
24 was that I've gone down on her and she enjoyed it... She interpreted that to mean that it was
25 worth it in some way or respect to monetarily..."

26 22. On or about May 29, 2014, and in *The People of the State of California v. Scott R.*
27 *Miller (09/19/1964)*, Los Angeles Superior Court, Case No. 4AV02892, Respondent was charged
28 with committing one misdemeanor count of unlawful sexual exploitation of a patient by a

1 physician in violation of Code section 729, subdivision (a), in connection with his unlawful
2 engagement in sexual intercourse with Patient/Victim Y.H.. The incident of unlawful sexual
3 exploitation of Patient/Victim Y.H. was alleged to have occurred on or about June 22, 2013.

4 23. On or about September 5, 2014, Respondent pled *nolo contendere* and was convicted
5 of violating Code section 729, subdivision (a). Respondent was sentenced and placed on
6 summary probation for three years, ordered to pay fines and fees in the total amount of \$2,260.00
7 and ordered to not associate/stay away from Patient/Victim Y.H..

8 24. The standard of care for a psychiatrist in the State of California is to provide an
9 objective means for the psychiatrist to perform his/her duties. To facilitate this objectivity, it is
10 unethical to have sexual relations with a patient. The American Psychiatric Association's
11 Principals of Medical Ethics with Annotations Especially Applicable to Psychiatry 2013 Edition,
12 Section 2.1 states, "The requirement that the physician conduct himself/herself with propriety in
13 his or her profession and in all the actions of his or her life is especially important in the case of
14 the psychiatrist because the patient tends to model his or her behavior after that of his or her
15 psychiatrist by identification. Further, the necessary intensity of the treatment relationship may
16 tend to activate sexual and other needs and fantasies on the part of both patient and psychiatrist,
17 while weakening the objectivity necessary for control. Additionally, the inherent inequality in the
18 doctor-patient relationship may lead to exploitation of the patient. Sexual activity with a current
19 or former patient is unethical."

20 25. Respondent's sexual relationship with Patient/Victim Y.H. represents an extreme
21 departure from the standard of care applicable to the physician-patient relationship.

22 26. Respondent's license is subject to disciplinary action under Code sections 2234, 726
23 and 729 in that he sexually exploited Patient/Victim Y.H. when he engaged in acts of sexual
24 contact, including sexual intercourse, with her, while she was a patient under his medical care.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Criminal Conviction)**

27 27. Respondent Scott Richard Miller, M.D. is subject to disciplinary action under Code
28 sections 726, 729, 2234, subdivisions (a) and (e), and 2236 and California Code of Regulations,

1 title 16, section 1360, in that Respondent sustained a criminal conviction, which under the facts
2 and circumstances of its commission substantially relates to the qualifications, functions, or duties
3 of a physician and surgeon. Specifically, Respondent was convicted of violating Code section
4 729, subdivision (a), sexual exploitation of a patient. The circumstances are as follows:

5 28. Complainant re-alleges the allegations contained in paragraphs 11 through 24 as if set
6 forth fully herein.

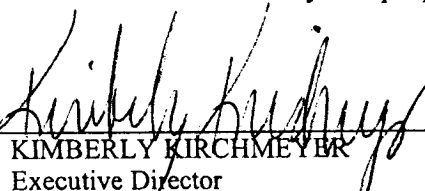
7 29. Respondent's acts amount to the conviction of a crime substantially related to the
8 qualifications, functions or duties of a physician and surgeon. Accordingly, pursuant to Code
9 sections 726, 729, 2234, subdivisions (a) and (e), and 2236 and California Code of Regulations,
10 title 16, section 1360, cause for discipline exists.

11 **PRAYER**

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

- 14 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 72857,
15 issued to Scott Richard Miller, M.D.;
- 16 2. Revoking, suspending or denying approval of Scott Richard Miller, M.D.'s authority
17 to supervise physician assistants, pursuant to section 3527 of the Code;
- 18 3. Ordering Scott Richard Miller, M.D., if placed on probation, to pay the Board the
19 costs of probation monitoring; and
- 20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: July 8, 2015


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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