

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

<b>In the Matter of the Accusation</b>	)	
<b>Against:</b>	)	
	)	
<b>JENNIFER LYNN McLAIN, M.D.</b>	)	<b>Case No. 16-2010-208743</b>
	)	
<b>Physician's and Surgeon's</b>	)	
<b>Certificate No. A-85109</b>	)	
	)	
<b>Respondent.</b>	)	
<hr/>		

**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 November 23, 2011.**

**IT IS SO ORDERED October 27, 2011.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Hedy Chang, Chair**  
**Panel B**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 JANE ZACK SIMON  
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7 *Attorneys for Complainant*  
8 *Medical Board of California*

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

Case No. 16-2010-208743

12 In the Matter of the Accusation Against:  
13 **JENNIFER LYNN McLAIN, M.D.**  
14 142 Berkeley Street, 2nd Floor  
Boston, MA 02116  
15 Physician's and Surgeon's Certificate No. A85109  
16  
17 Respondent.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

21 1. Linda K. Whitney ("complainant") is the Executive Director of the Medical  
22 Board of California and is the complainant herein. This action has been at all times brought and  
23 maintained solely in the official capacity of the Medical Board's Executive Director, who is  
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
25 Jane Zack Simon, Deputy Attorney General.

26 2. Jennifer Lynn McLain, M.D. ("respondent") is represented in this matter  
27 by Eve M. Slattery of Collora LLP, 600 Atlantic Avenue, 12th Floor, Boston MA 02210-2211.

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1           3.       On November 3, 2003, the Medical Board of California issued Physician's  
2 and Surgeon's Certificate No. A85109 to respondent. Said certificate is renewed and current with  
3 an expiration date of February 28, 2013.

4           4.       First Amended Accusation No. 16-2010-208743 ("Accusation") was duly  
5 filed before the Medical Board of California ("Board") and is currently pending against  
6 respondent. The Accusation and all other statutorily required documents were properly served on  
7 respondent and respondent timely filed a Notice of Defense contesting the Accusation. A copy of  
8 the Accusation is attached as exhibit A.

9           5.       Respondent has carefully read, discussed with counsel and understands the  
10 charges and allegations in Accusation No. 16-2010-208743 Respondent has also carefully read,  
11 discussed with counsel and understands the effects of this Stipulated Settlement and Disciplinary  
12 Order.

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

20           7.       Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above. Respondent admits that based exclusively on the Consent  
22 Order issued by the Massachusetts Board of Registration in Medicine set forth in the Accusation,  
23 complainant could establish a *prima facie* case with respect to the charges and allegations set  
24 forth in the Accusation. Respondent agrees that her California Physician's and Surgeon's  
25 Certificate is subject to discipline and she agrees to be bound by the Board's imposition of  
26 discipline as set forth in the Disciplinary Order below.

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28       ///

1 8. The admissions made by respondent herein are only for the purposes of this  
2 proceeding or any other proceedings in which the Medical Board of California or other  
3 professional licensing agency in any state is involved, and shall not be admissible in any other  
4 criminal or civil proceedings.

5 9. This Stipulation shall be subject to the approval of the Board.  
6 Respondent understands and agrees that Board staff and counsel for complainant may  
7 communicate directly with the Board regarding this stipulation, without notice to or participation  
8 by respondent or her counsel. If the Board fails to adopt this Stipulation as its Order in this  
9 matter, the Stipulation shall be of no force or effect; it shall be inadmissible in any legal action  
10 between the parties; and the Board shall not be disqualified from further action in this matter by  
11 virtue of its consideration of this Stipulation. Respondent also understands and agrees that she  
12 will not be able to withdraw or modify this Stipulation while it is before the Board for  
13 consideration.

14 10. The parties understand and agree that facsimile or electronic copies of this  
15 Stipulated Settlement and Disciplinary Order, including facsimile or electronic signatures thereto,  
16 shall have the same force and effect as the originals.

17 11. In consideration of the foregoing admissions and stipulations, the parties  
18 agree that the Board may, without further notice or formal proceeding, issue and enter the  
19 following Disciplinary Order:

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate number  
22 A85109 issued to respondent Jennifer Lynn McLain, M.D. is revoked. However, the revocation  
23 is stayed and respondent is placed on probation for four (4) years on the following terms and  
24 conditions.

25 1. **Practice Monitor**

26 Within 30 calendar days of the effective date of this Decision, respondent shall  
27 submit to the Board or its designee for prior approval as a practice monitor, the name and  
28 qualifications of one or more licensed physicians and surgeons whose licenses are valid and in

1 good standing, and who are preferably American Board of Medical Specialties (ABMS) certified.

2 A monitor shall have no prior or current business or personal relationship with respondent, or  
3 other relationship that could reasonably be expected to compromise the ability of the monitor to  
4 render fair and unbiased reports to the Board, including but not limited to any form of bartering,  
5 shall be in respondent's field of practice, and must agree to serve as respondent's monitor.  
6

7 Respondent shall pay all monitoring costs. The Board or its designee shall provide the approved  
8 monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan.

9 Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring  
10 plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and  
11 Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed  
12 monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall  
13 submit a revised monitoring plan with the signed statement. Within 60 calendar days of the  
14 effective date of this Decision, and continuing throughout probation, respondent's practice shall  
15 be monitored by the approved monitor. Respondent shall make all records available for  
16 immediate inspection and copying on the premises by the monitor at all times during business  
17 hours and shall retain the records for the entire term of probation. The monitor shall submit a  
18 quarterly written report to the Board or its designee which includes an evaluation of respondent's  
19 performance, indicating whether respondent's practices are within the standards of practice of  
20 medicine, and whether respondent is practicing medicine safely. It shall be the sole responsibility  
21 of respondent to ensure that the monitor submits the quarterly written reports to the Board or its  
22 designee within 10 calendar days after the end of the preceding quarter. If the monitor resigns or  
23 is no longer available, respondent shall, within 5 calendar days of such resignation or  
24 unavailability, submit to the Board or its designee, for prior approval, the name and qualifications  
25 of a replacement monitor who will be assuming that responsibility within 15 calendar days. If  
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1 respondent fails to obtain approval of a replacement monitor within 60 days of the resignation or  
2 unavailability of the monitor, respondent shall be suspended from the practice of medicine until a  
3 replacement monitor is approved and prepared to assume immediate monitoring responsibility.

4 Respondent shall cease the practice of medicine within 3 calendar days after being so notified by  
5 the Board or designee. Failure to maintain all records, or to make all appropriate records  
6 available for immediate inspection and copying on the premises, or to comply with this condition  
7 as outlined above is a violation of probation.  
8

9           2.     **Practice Restriction:** Respondent is prohibited from engaging in the solo  
10 practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where  
11 respondent merely shares office space with another physician but is not affiliated for the purposes  
12 of providing patient care or respondent is the sole physician practitioner at that location.  
13 Respondent is prohibited from engaging in the practice of medicine outside of an office, hospital  
14 or clinical setting, and shall not provide medical services in a patient's home.  
15

16           3.     **Notification:** Prior to engaging in the practice of medicine, the respondent  
17 shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief  
18 Executive Officer at every hospital where privileges or membership are extended to respondent,  
19 at any other facility where respondent engages in the practice of medicine, including all physician  
20 and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every  
21 insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall  
22 submit proof of compliance to the Board or its designee within 15 calendar days. This condition  
23 shall apply to any change(s) in hospitals, other facilities or insurance carrier.

24           4.     **Supervision of Physician Assistants:** During probation, respondent is  
25 prohibited from supervising physician assistants.

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1           5.     **Obey all Laws:** Respondent shall obey all federal, state and local laws,  
2 all rules governing the practice of medicine in California, and remain in full compliance with any  
3 court ordered criminal probation, payments and other orders.

4           6.     **Quarterly Declarations:** Respondent shall submit quarterly declarations  
5 under penalty of perjury on forms provided by the Board, stating whether there has been  
6 compliance with all the conditions of probation. Respondent shall submit quarterly declarations  
7 not later than 10 calendar days after the end of the preceding quarter.

8           7.     **Probation Unit Compliance:** Respondent shall comply with the Board's  
9 probation unit. Respondent shall, at all times, keep the Board informed of respondent's business  
10 and residence addresses. Changes of such addresses shall be immediately communicated in  
11 writing to the Board or its designee. Under no circumstances shall a post office box serve as an  
12 address of record, except as allowed by Business and Professions Code section 2021(b).  
13 Respondent shall not engage in the practice of medicine in respondent's place of residence.  
14 Respondent shall maintain a current and renewed California physician's and surgeon's license.  
15 Respondent shall immediately inform the Board, or its designee, in writing, of travel to any areas  
16 outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar  
17 days.

18           8.     **Interview With the Board, or its Designee:** Respondent shall be  
19 available in person for interviews either at respondent's place of business or at the probation unit  
20 office, with the Board or its designee, upon request at various intervals, and either with or without  
21 prior notice throughout the term of probation.

22           9.     **Residing or Practicing Out-of-State:** In the event respondent should  
23 leave the State of California to reside or to practice, respondent shall notify the Board or its  
24 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is  
25 defined as any period of time exceeding 30 calendar days in which respondent is not engaging in  
26 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time  
27 spent in an intensive training program outside the State of California which has been approved by  
28 the Board or its designee shall be considered as time spent in the practice of medicine within the

1 State. A Board-ordered suspension of practice shall not be considered as a period of non-practice.  
2 Periods of temporary or permanent residence or practice outside California will not apply to the  
3 reduction of the probationary term. Periods of temporary or permanent residence or practice  
4 outside California will relieve respondent of the responsibility to comply with the probationary  
5 terms and conditions with the exception of this condition and the following terms and conditions  
6 of probation: Obey All Laws; Probation Unit Compliance.

7 Respondent's license shall be automatically canceled if respondent's periods of  
8 temporary or permanent residence or practice outside California total two years. However,  
9 respondent's license shall not be canceled as long as respondent is residing and practicing  
10 medicine in another state of the United States and is on active probation with the medical  
11 licensing authority of that state, in which case the two year period shall begin on the date  
12 probation is completed or terminated in that state.

13 Any respondent disciplined under Business and Professions Code sections 141(a)  
14 or 2305 (out of state discipline) may petition for modification or termination of penalty: 1) if the  
15 other state's discipline terms are modified, terminated or reduced; and, 2) if at least one year has  
16 elapsed from the effective date of the California discipline.

17 10. **Failure to Practice Medicine - California Resident:**

18 In the event respondent resides in the State of California and for any reason  
19 respondent stops practicing medicine in California, respondent shall notify the Board or its  
20 designee in writing within 30 calendar days prior to the dates of non-practice and return to  
21 practice. Any period of non-practice within California, as defined in this condition, will not apply  
22 to the reduction of the probationary term and does not relieve respondent of the responsibility to  
23 comply with the terms and conditions of probation. Non-practice is defined as any period of time  
24 exceeding 30 calendar days in which respondent is not engaging in any activities defined in  
25 sections 2051 and 2052 of the Business and Professions Code. All time spent in an intensive  
26 training program which has been approved by the Board or its designee shall be considered time  
27 spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-  
28 ordered suspension or in compliance with any other condition of probation, shall not be



1 considered a period of non-practice.

2 Respondent's license shall be automatically canceled if respondent resides in  
3 California and for a total of two years, fails to engage in California in any of the activities  
4 described in Business and Professions Code sections 2051 and 2052.

5 11. **Completion of Probation:** Respondent shall comply with all financial  
6 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
7 completion of probation. Upon successful completion of probation, respondent's certificate shall  
8 be fully restored.

9 12. **Violation of Probation:** Failure to fully comply with any term or  
10 condition of probation is a violation of probation. If respondent violates probation in any respect,  
11 the Board, after giving respondent notice and the opportunity to be heard, may revoke probation  
12 and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke  
13 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board  
14 shall have continuing jurisdiction until the matter is final, and the period of probation shall be  
15 extended until the matter is final.

16 13. **License Surrender:** Following the effective date of this Decision, if  
17 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the  
18 terms and conditions of probation, respondent may request the voluntary surrender of  
19 respondent's license. The Board reserves the right to evaluate respondent's request and to  
20 exercise its discretion whether or not to grant the request, or to take any other action deemed  
21 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
22 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the  
23 Board or its designee and respondent shall no longer practice medicine. Respondent will no  
24 longer be subject to the terms and conditions of probation and the surrender of respondent's  
25 license shall be deemed disciplinary action. If respondent re-applies for a medical license, the  
26 application shall be treated as a petition for reinstatement of a revoked certificate.

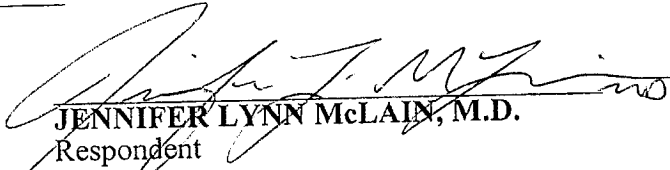
27 14. **Probation Monitoring Costs:** Respondent shall pay the costs associated  
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 are currently set at \$3,673.00, but may be adjusted on an annual basis. Such costs shall be  
2 payable to the Medical Board of California and delivered to the Board or its designee no later  
3 than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due  
4 date is a violation of probation.

5 **ACCEPTANCE**

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I  
7 understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate.  
8 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
9 intelligently, and agree to be bound by the Decision and Order of the Medical Board of  
10 California.

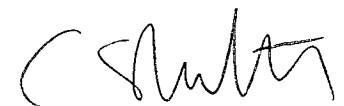
11 DATED: Sept. 22, 2011.

12   
13 **JENNIFER LYNN McLAIN, M.D.**  
14 Respondent

15 **APPROVAL**

16 I have read and fully discussed with respondent, Jennifer Lynn McLain, M.D. the  
17 terms and conditions and other matters contained in the above Stipulated Settlement and  
18 Disciplinary Order. I approve its form and content.

19 DATED: Sept. 27, 2011.

20   
21 **EVE M. SLATTERY**  
22 Collora LLP  
23 Attorneys for Respondent

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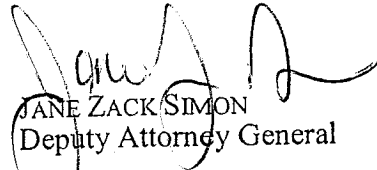
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ENDORSEMENT

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

Dated: 10/3/2011

KAMALA D. HARRIS  
Attorney General of California

  
JANE ZACK SIMON  
Deputy Attorney General  
Attorneys for Complainant

## **Exhibit A**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 JANE ZACK SIMON  
Deputy Attorney General [SBN 116564]  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
5 Telephone: (415) 703-5544  
Fax: (415) 703-5480  
6 E-mail: Janezack.simon@doj.ca.gov  
*Attorneys for Complainant*  
7 *Medical Board of California*

**FILED**  
**STATE OF CALIFORNIA**  
**MEDICAL BOARD OF CALIFORNIA**  
**SACRAMENTO** *December 20, 2010*  
**BY:** *[Signature]* **ANALYST**

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

11  
12 **Case No. 16-2010-208743**

13 In the Matter of the Accusation Against:

14 **JENNIFER LYNN McLAIN, M.D.**  
142 Berkeley Street 2nd Floor  
Boston, MA 02116

15 Physician's and Surgeon's  
16 Certificate No. A85109

17 Respondent.  
18

**FIRST AMENDED ACCUSATION**

19  
20 The Complainant alleges:

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

24 2. On November 5, 2003, Physician's and Surgeon's Certificate  
25 No. A85109 was issued by the Medical Board of California (Board) to Jennifer Lynn McLain,  
26 M.D. (Respondent.) The certificate is renewed and current with an expiration date of February  
27 28, 2011.  
28

1 **JURISDICTION**

2 3. This Accusation is brought before the Medical Board of California<sup>1</sup>, under  
3 the authority of the following sections of the California Business and Professions Code (“Code”)  
4 and/or other relevant statutory enactment:

5 A. Section 2227 of the Code provides that the Board may revoke,  
6 suspend for a period not to exceed one year, or place on probation, the license of any  
7 licensee who has been found guilty under the Medical Practice Act, and may recover the  
8 costs of probation monitoring.

9 B. Section 2305 of the Code provides that the revocation, suspension,  
10 or other discipline, restriction or limitation imposed by another state upon a license to  
11 practice medicine issued by that state, that would have been grounds for discipline in  
12 California under the Medical Practice Act, constitutes grounds for discipline for  
13 unprofessional conduct.

14 C. Section 141 of the Code provides:

15 “(a) For any licensee holding a license issued by a board under  
16 the jurisdiction of a department, a disciplinary action taken by another state, by  
17 any agency of the federal government, or by another country for any act  
18 substantially related to the practice regulated by the California license, may be  
19 ground for disciplinary action by the respective state licensing board. A certified  
20 copy of the record of the disciplinary action taken against the licensee by another  
21 state, an agency of the federal government, or by another country shall be  
22 conclusive evidence of the events related therein.

23 “(b) Nothing in this section shall preclude a board from applying  
24 a specific statutory provision in the licensing act administered by the board that  
25 provides for discipline based upon a disciplinary action taken against the licensee  
26 by another state, an agency of the federal government, or another country.”

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

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**FIRST CAUSE FOR DISCIPLINE**

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On July 21, 2010, the Massachusetts Board of Registration in Medicine (“Massachusetts Board”) issued a Consent Order regarding Respondent’s license to practice medicine in Massachusetts. The Consent Order contained factual findings relating to Respondent’s psychiatric treatment of a patient, and sets forth a conclusion that respondent failed to meet the standard of care in her treatment of the patient and demonstrated conduct which called into question her competence to practice. The Massachusetts Board indefinitely suspended respondent’s license pending her successful completion of an intensive multi-day course on maintaining appropriate boundaries. When Respondent returns to practice, it will be subject to terms of probation of at least five years. Terms of the probation include a requirement that she practice only in a group practice under the supervision of a workplace monitor, attend psychotherapy and obtain peer consultation. A copy of the Consent Order issued by the Massachusetts Board is attached as Exhibit A.

5. Respondent’s conduct and the action of the Massachusetts Board as set forth in paragraph 4, above, constitute unprofessional conduct within the meaning of section 2305 and conduct subject to discipline within the meaning of section 141(a).

**PRAYER**

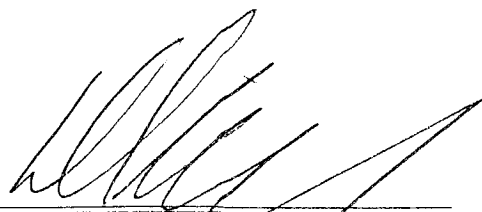
**WHEREFORE**, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician’s and Surgeon’s Certificate Number A85109 issued to respondent Jennifer Lynn McLain, M.D.;
2. Revoking, suspending or denying approval of the respondent’s authority to supervise physician assistants;
3. Ordering respondent, if placed on probation, to pay the costs probation monitoring; and

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4. Taking such other and further action as the Board deems necessary and proper.

DATED: December 20, 2010.



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



**Exhibit A**

REDACTED

SI 8 07/21/10

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

BOARD OF REGISTRATION  
IN MEDICINE

ADJUDICATORY NO. 2010-017

\_\_\_\_\_  
)  
In the Matter of )  
)  
Jennifer McLain, M.D. )  
\_\_\_\_\_)

CONSENT ORDER

Jennifer McLain, M.D. (Respondent) and the Complaint Counsel agree that the Board of Registration in Medicine (Board) may issue this Consent Order with all the force and effect of a Final Decision within the meaning of 801 C.M.R. 1.01(11)(d). The Respondent admits to the findings of fact described below and agrees the Board may make conclusions of law and impose a sanction in resolution of Docket No. 09-184.

BIOGRAPHICAL INFORMATION

1. The Respondent was born on [REDACTED] She graduated from University of Pennsylvania School of Medicine in 2002 and she is board-certified in psychiatry. In 2006, she completed her residency at Cedars-Sinai Medical Center, became licensed to practice medicine in Massachusetts under certificate number 227931, and began her association with Fenway Community Health Center (Fenway). From 2006 to 2008, she participated in a fellowship program in Psychodynamic Psychotherapy through the Adams House Clinic at Faulkner Hospital. In 2008, she opened a private practice in Jamaica Plain but continued to work as a Staff Psychiatrist at Fenway.

FINDINGS OF FACT

2. Patient A is a female born in 1979 with a diagnosis that includes borderline personality disorder with a history of treatment for depression and anxiety, including two brief psychiatric hospitalizations; physical and sexual abuse in childhood; self harm; and ongoing distress from sleep difficulties, nightmares, flashbacks, and suicidal ideation.
3. On June 25, 2007, the Respondent first saw Patient A for a psychopharmacology evaluation at Fenway.
4. The Respondent acted as Patient A's psychopharmacologist from June 25, 2007 to March 27, 2008. Patient A saw the Respondent at Fenway for these visits.
5. On March 27, 2008, the Respondent also became Patient A's psychotherapist. The psychotherapy began in conjunction with the Respondent's fellowship program.
6. Prior to March 2008, the Respondent had not treated a patient diagnosed with borderline personality disorder in therapy.
7. On June 21, 2008, Patient A was hospitalized for a suicide attempt.
8. On June 28, 2008 Patient A was hospitalized for a suicide attempt.
9. After Patient A's hospitalizations, the Respondent obtained an additional single consultation with a psychiatrist, who was not a current supervisor, prior to resuming psychotherapy with Patient A.
10. In July 2008, following the completion of her fellowship program, the Respondent began seeing Patient A in private practice.
11. During therapy sessions, the Respondent touched Patient A when Patient A became distressed.

- 12. During therapy sessions, Patient A and the Respondent discussed "mutual analysis" and "dual roles."
- 13. During therapy sessions with Patient A, the Respondent revealed personal information to Patient A in response to Patient A's questions.
- 14. The Respondent conducted extended therapy sessions with Patient A, including one session that lasted from early evening until approximately 3 a.m.
- 15. The Respondent conducted frequent extra therapy sessions with Patient A both in person and via telephone when Patient A was in crisis.
- 16. The Respondent and Patient A frequently spoke to each other on the telephone outside of therapy sessions at Patient A's request.
- 17. The Respondent and Patient A frequently communicated via text messages utilizing a code developed between the Respondent and Patient A at Patient A's request.
- 18. The Respondent and Patient A frequently communicated via electronic mail.
- 19. On October 14, 2008, the Respondent and Patient A met at the Arnold Arboretum for a multi-hour meeting.
- 20. On October 14, 2008, the Respondent allowed Patient A into the Respondent's home to use the restroom.
- 21. The Respondent's treatment of Patient A ended on October 17, 2008.
- 22. The Respondent's treatment of Patient A, as set forth in Paragraphs 11 – 20, failed to meet the standard of care

CONCLUSIONS OF LAW

A. The Respondent has violated G.L. c. 112, §5, ninth par. (c) and 243 C.M.R. 1.03(5)(a)3 in that she engaged in conduct which calls into question her competence to practice medicine.

B. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession, in violation of the standards set forth in Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982).

SANCTION

The Respondent's license is indefinitely suspended. The Respondent may petition the Board for a stay of suspension conditioned upon successful completion of a Board approved intensive multi-day course on maintaining appropriate boundaries such as the program at the Center for Professional Health at Vanderbilt Medical Center. The stay should also be conditioned upon entry into a Probation Agreement requiring that the Respondent: not engage in a private practice but only be allowed to practice medicine at Fenway Community Health Center (Fenway) or a group practice, under the supervision of a Board-approved onsite workplace psychiatrist monitor who shall submit written reports to the Board on a quarterly basis; attend individual psychotherapy with a Board-approved psychotherapist who shall submit written reports to the Board on a quarterly basis in regard to her attendance and compliance with psychotherapy; participate in weekly peer consultation at her workplace; provide authorizations and releases for reports and communications with her Board-approved psychotherapist and Board-approved on-site workplace psychiatrist monitor in accord with her Probation Agreement; provide a copy of the Consent Order in this matter to her employer, whether she practices at Fenway or in a group practice, her Board-approved psychotherapist, Board-approved worksite psychiatrist monitor; and any supervisor she may have; and any other terms and conditions the Board deems appropriate at the time.

This sanction is imposed for Conclusions of Law A and B individually and not for any combination of them.

EXECUTION OF THIS CONSENT ORDER

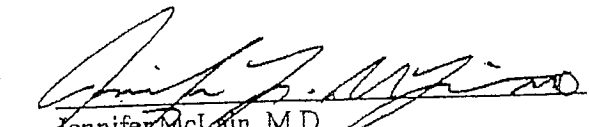
The parties agree that the approval of this Consent Order is left to the discretion of the Board. The signature of the Respondent and Complaint Counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the stipulations contained herein shall be null and void; thereafter neither of the parties nor anyone else may rely on these stipulations in this proceeding. As to any matter that this Consent Order leaves to the discretion of the Board, neither the Respondent, nor anyone acting on her behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that she may have resulting from the Board's acceptance of this Consent Order.

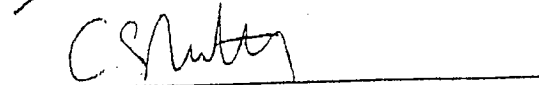
The Respondent shall provide a complete copy of this Consent Order within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which she practices medicine; any in- or out-of-state health maintenance organization with whom she has privileges or any other kind of association; any state agency, in- or out-of-state, with which she has a provider contract; any in- or out-of-state medical employer, whether or not she practices medicine there; the state licensing boards of all states in which she has any kind of license; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which

she becomes associated for the duration of the Probation Agreement. The Respondent is further directed to certify to the Board within ten (10) days that she has complied with this directive.

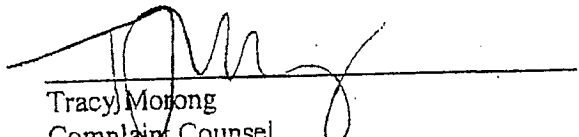
The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

  
Jennifer McLain, M.D.  
Respondent

6/9/10  
Date

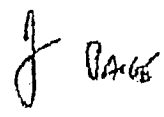
  
Eve Slattery, Esq.  
Attorney for Respondent

6/9/10  
Date

  
Tracy Morong  
Complain Counsel

6/10/10  
Date

So ordered by the Board of Registration in Medicine this 21<sup>st</sup> day of July, 2010.

  
Peter Paige, M.D.  
Chairman

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

BOARD OF REGISTRATION  
IN MEDICINE

Adjudicatory Case No. 2010-017

\_\_\_\_\_  
In the Matter of \_\_\_\_\_  
Jennifer McLain, M.D. \_\_\_\_\_  
\_\_\_\_\_

**PROBATION AGREEMENT**

**I. COMPLIANCE WITH AGREEMENT**

The Respondent agrees that violation of this Probation Agreement, including such provisions which survive this Agreement, shall constitute sufficient grounds for the immediate suspension of the Respondent's license to practice medicine, or any such lesser sanction as the Board may deem fit to impose, without prior notice to the Respondent. The Respondent hereby waives any claim or defense to any subsequent action by the Board to suspend the Respondent's license or impose such other lesser sanction, for any such violation or violations, except that the Respondent shall be entitled to defend against the assertion of a violation of this Agreement. The Respondent acknowledges and agrees that by entering into this Agreement, the Respondent is relinquishing important procedural and substantive rights.

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## II. PARTIES

The parties to this Probation Agreement are the Board of Registration in Medicine (hereinafter "the Board") and Jennifer McLain, M.D. (hereinafter "the Respondent").

## III. JURISDICTION

The parties agree that the Board has the authority to enter into this Probation Agreement, and that the Board may enforce the terms of this Agreement in accordance with applicable laws and regulations and the provisions of this Agreement.

## IV. CONDITIONS OF PROBATION

During the probationary period, which shall be effective on the date the Board accepts this Agreement, the Respondent shall comply with each of the following requirements:

- A. The Respondent agrees to undergo monitoring by the Board until at least July 21, 2015 (five years from the date of the Board's acceptance of this Agreement) and for such further period thereafter as the Board shall for reasonable cause order. At the Board's discretion, any periods during which the Respondent is not practicing medicine, during the probationary period, may extend the probationary period.

B. The Respondent shall be under the care of a licensed or certified health care professional, approved by the Board. The approved health care professional shall submit written reports, on a quarterly basis, to the Board or its designee. The health care professional shall immediately notify the Board by telephone whenever, in his or her professional judgment, the Respondent poses a potential danger to the health, safety and welfare of the Respondent's patients. In addition, the health care professional shall immediately notify the Board by telephone and in writing in the event that the Respondent terminates treatment, or is non-compliant with the treatment plan. In the event that the health care professional notifies the Board that the Respondent poses a danger to the health, safety or welfare of the Respondent's patients, or terminates treatment, the Board may obtain any and all information, reports and records for a period not to exceed ninety (90) days prior to the date of said notification from the health care provider concerning the Respondent. The Respondent hereby waives any privileges concerning such information, reports, records and disclosures to the Board. The health care professional shall confirm in writing, within ten (10) days of the Board's accepting this agreement, his or her agreement and undertaking with respect to the obligations set forth in this Agreement, and shall notify the Board if the Respondent withdraws any waiver filed in connection with this Agreement. The Respondent may not terminate treatment with, or change the identity of the health care professional without prior Board approval. The Respondent has chosen Luanne Grossman, Psy.D, as the healthcare professional who shall fulfill the monitoring requirements of this paragraph. The Respondent also agrees to provide a copy of the Consent Order in this matter to her Board-approved health care professional. The approved health care professional shall certify, in writing, that she has received a copy of the Consent Order; said certification to be submitted to the Board within thirty (30) days of the approval of this Agreement.

C. All agreements whereby third parties are to provide written reports, releases, records or any other information to the Board under this Probation Agreement shall be submitted to the Board for approval within thirty (30) days after the Probation Agreement is approved by the Board. All such releases and agreements must, in addition to waiving any relevant state law privileges or immunities, provide the Board with access to all material covered by 42 CFR, Part 2, and the Criminal Offender Records Information (CORI) Act, so-called, M.G.L. c. 6, §§ 167-178; all such releases and agreements must provide that the released party shall notify the Board if any waiver is withdrawn. In the event that any such releases or waivers are not sufficient to obtain access to any information which the Board in its discretion considers relevant, the Respondent agrees to obtain personally such information and furnish it to the Board, to the extent permitted by law.

D. In the event that the Respondent seeks licensure to practice medicine in another state, the Respondent shall notify the Board of such fact and shall disclose to the licensing authority in such state her status with this Board. The Respondent shall submit to the Board copies of all correspondence and application materials submitted to another states' licensing authority.

E. In the event the Respondent should leave Massachusetts to reside or practice out of the state, the Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside Massachusetts will not apply to the reduction of any period of the Respondent's probationary licensure, unless the Respondent enters into a monitoring agreement, approved by the Board, in the new location.

F. The Respondent shall appear before the Board or a committee of its members at such times as the Board may request, upon reasonable advance notice, commensurate with the gravity or urgency of the need for such meeting as determined by the Board or such committee.

G. The Respondent shall provide a complete copy of this Probation Agreement, with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which she practices medicine; any in- or out-of-state health maintenance organization with whom she has privileges or any other kind of association; any state agency, in- or out-of-state, with which she has a provider contract; any in- or out-of-state medical employer, whether or not she practices medicine there; the Drug Enforcement Agency, Boston Diversion Group; Department of Public Health Bureau of Health Care Safety and Quality; and the state licensing boards of all states in which she has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which she becomes associated for the duration of this Probation Agreement. The Respondent is further directed to certify to the Board within ten (10) days that she has complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

H. The Respondent may engage in the practice of medicine under conditions that the Board may impose. The Respondent may engage in the practice of

medicine only at Fenway Community Health Center, located in Boston, Massachusetts. The Respondent may not practice medicine at any location other than that set forth herein, unless the Board, upon the Respondent's petition, approves the clinical setting and practice plan. Any such practice plan shall be limited to a group practice, in accordance with the Consent Order in this matter. The Respondent further agrees to provide a copy of the Consent Order in this matter to any approved worksite.

I. The Respondent shall participate in weekly peer consultation with an onsite psychiatrist monitor, approved by the Board, who shall submit written reports, including reports on all missed sessions, to the Board or its designee on a quarterly basis. The worksite monitor shall immediately notify the Board by telephone whenever, in his or her professional judgment, the Respondent poses a potential danger to the health, safety and welfare of the Respondent's patients. In addition, the worksite monitor shall immediately notify the Board by telephone and in writing in the event that the Respondent terminates weekly consultations or is, in his or her opinion, otherwise non-compliant. The Respondent hereby waives any privileges concerning such information and disclosures to the Board. The worksite monitor shall confirm in writing within ten (10) days of the Board's accepting this agreement his or her agreement and undertaking with respect to the obligations set forth in this Agreement, and shall notify the Board if the Respondent withdraws any waiver filed in connection with this agreement. The Respondent may not change the identity of the worksite monitor without prior Board approval. The Respondent has chosen Kevin D. Kapila, M.D. as the worksite monitor who shall fulfill the peer consultation requirements of this paragraph. The Respondent agrees to provide the Board-approved worksite monitor with a copy of the Consent Order in this matter; the approved worksite

monitor shall certify in writing to the Board that he or she has received a copy of the Consent Order within thirty (30) days of the approval of this Agreement.

J. The Respondent, and not the Board, shall be responsible for the payment of any fee or charge occasioned by the Respondent's compliance with this Probation Agreement.

K. The Respondent may request that the Board modify any of the conditions set forth above. The Board may, in its discretion, grant such modification. Except for requests for modifications related to the identity of the health care professional and monitor referenced in Paragraphs C and I, and the Respondent's employment, the Respondent may make such a request not more than once in any one year period, nor any sooner than one year from the date of this Probation Agreement.

**V. TERMINATION OF PROBATION**

A. If the Respondent complies with his obligations as set forth above, the Board, at the expiration of the five-year period, shall, upon petition by the Respondent, terminate the Respondent's probationary period and probation with the Board, unless the Respondent's probation is extended in accordance with paragraph IV(A).

B. If the Respondent fails to comply with his obligations as set forth above, the Respondent's license to practice medicine may be immediately suspended, as agreed in Section I.

6/22/10  
Date

6/22/10  
Date

[Signature]  
Respondent  
[Signature]  
Attorney for the Respondent

Accepted this 21st day of July, 2010, by the Board of Registration in Medicine.

[Signature]  
Peter Paige M.D., Chairman  
Board of Registration in Medicine

REDACTED

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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

BOARD OF REGISTRATION  
IN MEDICINE

ADJUDICATORY NO. 2010-017

In the Matter of

Jennifer McLain, M.D.

STATEMENT OF ALLEGATIONS

Jennifer McLain, M.D. (Respondent) and the Complaint Counsel agree that the Board of Registration in Medicine (Board) may issue this Consent Order with all the force and effect of a Final Decision within the meaning of 801 C.M.R. 1.01(11)(d). The Respondent admits to the findings of fact described below and agrees the Board may make conclusions of law and impose a sanction in resolution of Docket No. 09-184.

BACKGROUND

1. The Respondent was born on [REDACTED]. She graduated from University of Pennsylvania School of Medicine in 2002 and she is board-certified in psychiatry. In 2006, she completed her residency at Cedars-Sinai Medical Center, became licensed to practice medicine in Massachusetts under certificate number 227931, and began her association with Fenway Community Health Center (Fenway). From 2006 to 2008, she participated in a fellowship program in Psychodynamic Psychotherapy through the Adams House Clinic at Faulkner Hospital. In 2008, she opened a private practice in Jamaica Plain but continued to work as a Staff Psychiatrist at Fenway.



FACTUAL ALLEGATIONS

2. Patient A is a female born in 1979 with a diagnosis that includes borderline personality disorder with a history of treatment for depression and anxiety, including two brief psychiatric hospitalizations; physical and sexual abuse in childhood; self harm; and ongoing distress from sleep difficulties, nightmares, flashbacks, and suicidal ideation.
3. On June 25, 2007, the Respondent first saw Patient A for a psychopharmacology evaluation at Fenway.
4. The Respondent acted as Patient A's psychopharmacologist from June 25, 2007 to March 27, 2008. Patient A saw the Respondent at Fenway for these visits.
5. On March 27, 2008, the Respondent also became Patient A's psychotherapist. The psychotherapy began in conjunction with the Respondent's fellowship program.
6. Prior to March 2008, the Respondent had not treated a patient diagnosed with borderline personality disorder in therapy.
7. On June 21, 2008, Patient A was hospitalized for a suicide attempt.
8. On June 28, 2008 Patient A was hospitalized for a suicide attempt.
9. After Patient A's hospitalizations, the Respondent obtained an additional single consultation with a psychiatrist, who was not a current supervisor, prior to resuming psychotherapy with Patient A.
10. In July 2008, following the completion of her fellowship program, the Respondent began seeing Patient A in private practice.
11. During therapy sessions, the Respondent touched Patient A when Patient A became distressed.
12. During therapy sessions, Patient A and the Respondent discussed "mutual analysis" and "dual roles."

- 13. During therapy sessions with Patient A, the Respondent revealed personal information to Patient A in response to Patient A's questions.
- 14. The Respondent conducted extended therapy sessions with Patient A, including one session that lasted from early evening until approximately 3 a.m.
- 15. The Respondent conducted frequent extra therapy sessions with Patient A both in person and via telephone when Patient A was in crisis.
- 16. The Respondent and Patient A frequently spoke to each other on the telephone outside of therapy sessions at Patient A's request.
- 17. The Respondent and Patient A frequently communicated via text messages utilizing a code developed between the Respondent and Patient A at Patient A's request.
- 18. The Respondent and Patient A frequently communicated via electronic mail.
- 19. On October 14, 2008, the Respondent and Patient A met at the Arnold Arboretum for a multi-hour meeting.
- 20. On October 14, 2008, the Respondent allowed Patient A into the Respondent's home to use the restroom.
- 21. The Respondent's treatment of Patient A ended on October 17, 2008.
- 22. The Respondent's treatment of Patient A, as set forth in Paragraphs 11 - 20, failed to meet the standard of care

**LEGAL BASIS FOR PROPOSED RELIEF**

- A. Pursuant to G.L. c. 112, §5, ninth par. (c) and 243.C.M.R. 1.03(5)(a) 3, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct which calls into question her competence to practice medicine.
- B. Pursuant to the standards set forth in Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982), the Board

may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§5, 61, and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01, et. seq.

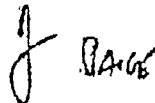
**NATURE OF RELIEF SOUGHT**

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

**ORDER**

Wherefore, it is hereby **ORDERED** that the Respondent show cause why she should not be disciplined for the conduct described herein.

By the Board of  
Registration in Medicine,



Peter Paige, M.D.  
Chairman

Dated: July 21, 2010

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