

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

In the Matter of the Accusation Against:)

MARCELLA MARIA WILSON, M.D.)

File No. 800-2015-014789

**Physician's and Surgeon's)
Certificate No. G 59275)**

Respondent)

DECISION AND ORDER

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 May 4, 2018.

IT IS SO ORDERED April 5, 2018.

MEDICAL BOARD OF CALIFORNIA

By:



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 MICHAEL J. YUN
Deputy Attorney General
4 State Bar No. 292587
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5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

14 **MARCELLA MARIA WILSON, M.D.**
4060 4th Avenue, Suite 445
15 San Diego, CA 92103

16 **Physician's and Surgeon's Certificate**
17 **No. G 59275,**

18 Respondent.

Case No. 800-2015-014789

OAH No. 2017101060

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

22 1. Kimberly Kirchmeyer (complainant) is the Executive Director of the Medical Board
23 of California. She brought this action solely in her official capacity and is represented in this
24 matter by Xavier Becerra, Attorney General of the State of California, by Michael J. Yun, Deputy
25 Attorney General.

26 2. Respondent Marcella Maria Wilson, M.D. (respondent) is represented in this
27 proceeding by attorney Robert W. Frank, Esq., whose address is: 110 West A Street, Suite 1200,
28 San Diego, CA 92101.

1 3. On or about December 8, 1986, the Board issued Physician's and Surgeon's
2 Certificate No. G 59275 to Marcella Maria Wilson, M.D. (respondent). The Physician's and
3 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in
4 Accusation No. 800-2015-014789, and will expire on June 30, 2018, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2015-014789 was filed before the Medical Board of California,
7 and is currently pending against respondent. A true and correct copy of Accusation No. 800-
8 2015-014789 and all other statutorily required documents were properly served on respondent on
9 August 28, 2017. Respondent timely filed her Notice of Defense contesting the Accusation. A
10 copy of Accusation No. 800-2015-014789 is attached as Exhibit 1 and incorporated herein by
11 reference as if fully set forth herein.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, fully discussed with counsel, and fully understands the
14 charges and allegations in Accusation No. 800-2015-014789. Respondent has also carefully read,
15 fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
19 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of
21 documents; the right to reconsideration and court review of an adverse decision; and all other
22 rights accorded by the California Administrative Procedure Act and other applicable laws, having
23 been fully advised of same by her attorney of record Robert W. Frank, Esq.

24 7. Respondent, having the benefit of counsel, hereby voluntarily, knowingly, and
25 intelligently waives and gives up each and every right set forth and/or referenced above.

26 **CULPABILITY**

27 8. Respondent admits the truth of each and every charge and allegation in Accusation
28 No. 800-2015-014789, agrees that her Physician's and Surgeon's Certificate No. G 59275 is

1 subject to discipline, and agrees to be bound by the Board's imposition of discipline as set forth in
2 the Disciplinary Order below.

3 9. Respondent agrees that if an accusation and/or petition to revoke probation is filed
4 against her before the Medical Board of California, or if she ever petitions for early termination or
5 modification of probation, in any proceeding before the Medical Board of California, all of the
6 charges and allegations contained in Accusation No. 800-2015-014789 shall be deemed true,
7 correct and fully admitted by respondent for purposes of any such proceeding or any other
8 licensing proceeding involving respondent in the State of California.

9 **CONTINGENCY**

10 10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
11 submitted to the Board for its consideration in the above-entitled matter and, further, that the
12 Board shall have a reasonable period of time in which to consider and act on this Stipulated
13 Settlement and Disciplinary Order after receiving it. By signing this stipulation respondent fully
14 understands and agrees that she may not withdraw her agreement or seek to rescind this
15 stipulation prior to the time the Board considers and acts upon it.

16 11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
17 and void and not binding upon the parties unless approved and adopted by the Board, except for
18 this paragraph, which shall remain in full force and effect. Respondent fully understands and
19 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
20 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
21 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify
22 the Board, any member thereof, and/or any other person from future participation in this or any
23 other matter affecting or involving respondent. In the event that the Board, in its discretion, does
24 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of
25 this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and
26 shall not be relied upon or introduced in any disciplinary action by either party hereto.

27 Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary
28 Order for any reason, respondent will assert no claim that the Board, or any member thereof, was

1 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
2 Disciplinary Order or of any matter or matters related hereto.

3 **ADDITIONAL PROVISIONS**

4 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
5 be an integrated writing representing the complete, final and exclusive embodiment of the
6 agreements of the parties in the above-entitled matter.

7 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
8 including copies of the signatures of the parties, may be used in lieu of original documents and
9 signatures and, further, that copies shall have the same force and effect as originals.

10 14. In consideration of the foregoing admissions and stipulations, the parties agree the
11 Board may, without further notice to or opportunity to be heard by respondent, issue and enter the
12 following Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 **A. PUBLIC REPRIMAND**

15 IT IS HEREBY ORDERED that respondent Marcella Maria Wilson, M.D., Physician's and
16 Surgeon's Certificate No. G 59275, shall be and is hereby Publicly Reprimanded pursuant to
17 California Business and Professions Code section 2227, subdivision (a)(4). This Public
18 Reprimand, which is issued in connection with respondent's dishonest act, as set forth in
19 Accusation No. 800-2015-014789, is as follows:

20 You committed an act involving dishonesty which is substantially related
21 to the qualifications, functions, or duties of a physician and surgeon and engaged
22 in general unprofessional conduct on or about May 19, 2014, as more fully set
23 forth in Accusation No. 800-2015-014789, a true and correct copy of which is
24 attached hereto as Exhibit 1 and incorporated by reference as if fully set forth
25 herein.

26 **B. ETHICS COURSE**

27 Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a
28 professionalism program, that meets the requirements of Title 16, California Code of Regulations

1 (CCR) section 1358.1. Respondent shall participate in and successfully complete that program.
2 Respondent shall provide any information and documents that the program may deem pertinent.
3 Respondent shall successfully complete the classroom component of the program not later than
4 six (6) months after respondent's initial enrollment, and the longitudinal component of the
5 program not later than the time specified by the program, but no later than one (1) year after
6 attending the classroom component. The professionalism program shall be at respondent's
7 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
8 renewal of licensure. Failure to participate in and successfully complete the program
9 requirements as outlined above shall constitute unprofessional conduct and be grounds for further
10 disciplinary action.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Robert W. Frank, Esq. I understand the stipulation and the effect it
14 will have on my Physician's and Surgeon's Certificate No. G 59275. I fully understand that, after
15 signing this stipulation, I may not withdraw from it, that it shall be submitted to the Medical
16 Board of California for its consideration, and that the Board shall have a reasonable period of
17 time to consider and act on this stipulation after receiving it. By entering into this stipulation, I
18 fully understand that, upon formal acceptance by the Board, I shall be publicly reprimanded by
19 the Board and shall be required to comply with all of the terms and conditions of the Disciplinary
20 Order set forth above. I also fully understand that any failure to comply with the terms and
21 conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and
22 will subject my Physician's and Surgeon's Certificate No. G 59275 to further disciplinary action.
23 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
24 intelligently, and agree to be bound by the Decision and Order of the Medical Board of
25 California.

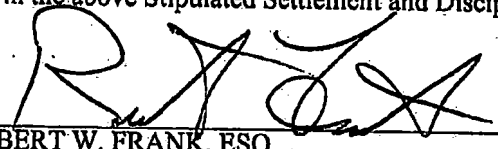
26 DATED: 1/26/18

Marcella M Wilson M.D.
MARCELLA MARIA WILSON, M.D.
Respondent

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I have read and fully discussed with Respondent Marcella Maria Wilson, 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: 1-26-18



ROBERT W. FRANK, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: 1/26/2018

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



MICHAEL J. YUN
Deputy Attorney General
Attorneys for Complainant

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Exhibit 1

Accusation No. 800-2015-014789

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 28 2017
BY: R. Young ANALYST

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

In the Matter of the Accusation Against:

MARCELLA MARIA WILSON, M.D.
4060 4th Avenue, Suite 445
San Diego, CA 92103

**Physician's and Surgeon's Certificate
No. G 59275,**

Respondent.

Case No. 800-2015-014789

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California.
2. On or about December 8, 1986, the Medical Board (Board) issued Physician's and Surgeon's Certificate No. G 59275 to Marcella Maria Wilson, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2018, unless renewed.

///

1 JURISDICTION

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 (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

6 “(a) A licensee whose matter has been heard by an administrative law judge of
7 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
8 Code, or whose default has been entered, and who is found guilty, or who has entered
9 into a stipulation for disciplinary action with the board, may, in accordance with the
10 provisions of this chapter:

11 “(1) Have his or her license revoked upon order of the board.

12 “(2) Have his or her right to practice suspended for a period not to exceed one
13 year upon order of the board.

14 “(3) Be placed on probation and be required to pay the costs of probation
15 monitoring upon order of the board.

16 “(4) Be publicly reprimanded by the board. The public reprimand may include
17 a requirement that the licensee complete relevant educational courses approved by the
18 board.

19 “(5) Have any other action taken in relation to discipline as part of an order of
20 probation, as the board or an administrative law judge may deem proper.

21 “(b) Any matter heard pursuant to subdivision (a), except for warning letters,
22 medical review or advisory conferences, professional competency examinations,
23 continuing education activities, and cost reimbursement associated therewith that are
24 agreed to with the board and successfully completed by the licensee, or other matters
25 made confidential or privileged by existing law, is deemed public, and shall be made
26 available to the public by the board pursuant to Section 803.1.”

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

2 “The board shall take action against any licensee who is charged with
3 unprofessional conduct. In addition to other provisions of this article, unprofessional
4 conduct includes, but is not limited to, the following:

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
6 abetting the violation of, or conspiring to violate any provision of this chapter.

7 “...

8 “(e) The commission of any act involving dishonesty or corruption which is
9 substantially related to the qualifications, functions, or duties of a physician and
10 surgeon.

11 “...”

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Dishonest Act)**

14 6. Respondent has subjected her Physician’s and Surgeon’s Certificate No. G 59275 to
15 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of
16 the Code, in that she has committed an act involving dishonesty or corruption which is
17 substantially related to the qualifications, functions, or duties of a physician and surgeon, as more
18 particularly alleged herein:

19 7. On or about June 19, 2015, the Medical Board of California’s (Board) Central
20 Complaint Unit (CCU) received a complaint from M.K., M.D. (Dr. M.K.) regarding respondent.
21 Dr. M.K. alleged that respondent engaged in theft and forgery. Dr. M.K. provided the following
22 information to CCU, in summary:

23 “Respondent and I have shared an office for the past 20 years. In 2014, respondent
24 stole a blank prescription from me without my knowledge or consent. Respondent
25 forged my signature using my signature stamp without my knowledge or consent.
26 Respondent used the forged prescription to be excused from her mandatory test for
27 tuberculosis. I confronted respondent in early 2015. Respondent admitted to perhaps
28 having found a blank prescription which she used to “doodle.” I again confronted

1 respondent in front of Dr. M.C. and Office Manager D.R. During this meeting,
2 respondent admitted to the theft, the forgery, and submitting the prescription to her
3 employer to be excused from tuberculosis testing.”

4 8. Along with the complaint, Dr. M.K. provided a copy of two emails he received from
5 respondent. In the emails, respondent denied stealing “pads” or forging Dr. M.K.’s signature.
6 Respondent admitted to “doodling art” on Dr. M.K.’s prescription pad that respondent alleged she
7 found in her drawer.

8 9. On or about July 2, 2015, CCU referred this case to the San Diego District Office of
9 the Health Quality Investigation Unit (HQIU), an investigative arm of the California Department
10 of Consumer Affairs and the Board, for further investigation.

11 10. On or about July 13, 2015, this case was assigned to HQIU Investigator J.P. (Inv.
12 J.P.).

13 11. On or about August 13, 2015, Inv. J.P. interviewed M.C., M.D. (Dr. M.C.), an
14 officemate of respondent and Dr. M.K., regarding Dr. M.C.’s interactions with respondent. Dr.
15 M.C. provided Inv. J.P. the following information, in summary:

16 “I have been a psychiatrist for approximately 26 years and have known and worked
17 with respondent for the past 13 years. Respondent and I work in the same office but
18 work independently of each other. We do not share patients. Until about a year ago, I
19 had not noticed any issues or problems with respondent. Around that time, Dr. M.K.
20 asked me if I was in possession of any of his prescription pads. Through Dr. M.K., I
21 became aware of respondent using one of Dr. M.K.’s prescription pads to be excused
22 from a Tuberculosis test requirement at her other place of employment, UPAC. In
23 March, Dr. M.K. wanted to have a formal meeting with office assistant D.R.,
24 respondent, and me. Initially during the meeting, we spoke with respondent regarding
25 paying rent and helping with office supplies. During this meeting, respondent stated
26 she was doodling on the prescription pad of Dr. M.K.”

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1 12. On or about August 13, 2015, Inv. J.P. also interviewed Dr. M.K. who provided him
2 the following information, in summary:

3 “I have been a psychiatrist for 36 years. I have been at my current location for the
4 past 15 years. Dr. M.C., respondent, and I all share the same office space. We each
5 work independently of each other. I first met respondent while she was doing her
6 residency at University of California San Diego (“UCSD”). I was her supervisor.
7 After respondent graduated, she approached me and discussed sharing an office space.
8 I agreed and signed a lease with respondent for an office space. Recently, I became
9 aware of respondent sending a fax to one of her employers on my prescription pad
10 with my signature stamp. The note was regarding respondent being excused from
11 Tuberculosis testing requirements. I did not authorize respondent to write the note,
12 use my prescription pad, or use my signature stamp. The signature stamps are locked
13 up, but respondent does have access to them. I held a meeting with Dr. M.C.,
14 respondent, and D.R. During the meeting, respondent admitted to using my
15 prescription pad to “doodle.” Respondent denied forging my signature.”

16 13. On or about August 13, 2015, Inv. J.P. also interviewed D.R. who provided him the
17 following information, in summary:

18 “I have worked for Dr. M.K. for approximately 27 years. I have known Dr. M.C. for
19 about 10 years. I have known respondent for about 15 years. I do the same work for
20 all three doctors. In December 2014, I came to the office and conducted my morning
21 tasks. One of the tasks is to turn on the fax machine and sort through the faxes. I
22 determine to whom the faxes belong and place the faxes in the appropriate doctor’s
23 box. During this routine, I found a confirmation page on the fax machine. The
24 confirmation page was the prescription pad of Dr. M.K. with a hand written note
25 about excusing respondent from Tuberculosis testing. The prescription pad had Dr.
26 M.K.’s stamp signature. I recognized the handwriting as belonging to respondent. I
27 thought the prescription was odd due to Dr. M.K. being out of town at this time.
28 When, Dr. M.K. returned to the office, I showed him the confirmation fax page

1 containing his prescription pad, the hand written note, and his signature. Dr. M.K.
2 held a meeting with Dr. M.C., respondent, and me. During the meeting, respondent
3 stood at the doorway the whole time. When Dr. M.K. asked respondent about the
4 prescription pad, she admitted having had possession of Dr. M.K.'s prescription pad."

5 14. On or about September 8, 2015, Inv. J.P. received a copy of the Fax Transmittal
6 Cover Sheet containing a copy of a prescription pad belonging to Dr. M.K. In the heading section
7 at the top of the prescription pad were the pre-printed name, address, and the medical license
8 number of Dr. M.K. Below the heading and next to "NAME" where a patient's name would be
9 was the inscribed name of respondent, "Marcella Wilson, M.D." The note on the prescription
10 stated that the "patient has been [...] medically cleared," that her "past PPD's [were] reviewed,"
11 and that they were "all negative." The handwritten notes reiterated at the bottom: "Medically
12 Cleared." The signature at the bottom of the prescription pad below the handwritten notes was
13 that of Dr. M.K.'s stamped signature. The fax message indicated that there was an error and that
14 the destination did not receive the communication.

15 15. On or about April 5, 2017, Inv. J.P. conducted a subject interview of respondent at the
16 San Diego District Field Office of HQUI. The interview of audio recorded. During the interview,
17 respondent admitted to writing the handwritten notes on Dr. M.K.'s prescription pad described
18 above. She also admitted to using Dr. M.K.'s signature stamp that was used to sign the
19 prescription note at the bottom of the prescription page.

20 16. During the same interview, respondent stated she needed a PPD (purified protein
21 derivative) test results for her employer organization, called "UPAC." She admitted she sent the
22 prescription note via fax to UPAC. However, she stated she had tried to get a hold of Dr. M.K. to
23 get his permission, but that she was unable to get a hold of him and that is why she faxed it to
24 UPAC without his permission. Respondent alleged she contacted UPAC afterwards and told
25 them that they could not use the note until she got authorization from Dr. M.K.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**


3 17. Respondent has further subjected her Physician's and Surgeon's Certificate No.
4 G 59275 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
5 subdivisions (a) and (e), of the Code, in that she has engaged in conduct which breaches the rules
6 or ethical code of the medical profession, or conduct which is unbecoming a member in good
7 standing of the medical profession, and which demonstrates an unfitness to practice medicine, as
8 more particularly alleged in paragraphs 6 through 16, above, which are hereby incorporated by
9 reference and realleged as if fully set forth herein.

10 **PRAYER**

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

- 13 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 59275, issued to
14 respondent Marcella Maria Wilson, M.D.;
- 15 2. Revoking, suspending or denying approval of respondent Marcella Maria Wilson,
16 M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and
17 advanced practice nurses;
- 18 3. Ordering respondent Marcella Maria Wilson, M.D. to pay the Medical Board of
19 California the costs of probation monitoring, if placed on probation; and
- 20 4. Taking such other and further action as deemed necessary and proper.

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22 DATED: August 28, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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