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7

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

11 In the Matter of the Accusation Against:

Case No. 03-2009-202059

12
13 **MICHAEL K. SEID, M.D.**
2452 South Bascom, Suite 255
14 Campbell, CA 95008

**STIPULATION FOR SURRENDER
OF CERTIFICATE**

15 Physician's and Surgeon's Certificate
16 No. A90002

17 Respondent.

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19 In the interest of a prompt and speedy resolution of this matter, consistent with the public
20 interest and the responsibility of the Medical Board of California, Department of Consumer
21 Affairs, (hereinafter, the "Board"), the parties hereby agree to the following Stipulation for
22 Surrender of Certificate which will be submitted to the Board for its approval and adoption as the
23 final disposition of Case No. 03-2009-202059.

24 **PARTIES**

25 1. Linda K. Whitney ("complainant") is the Executive Director of the Medical Board of
26 California, Department of Consumer Affairs, who brought this action solely in her official
27 capacity. She is represented in this matter by Edmund G. Brown Jr., Attorney General of the
28 State of California, by Lawrence Mercer, Deputy Attorney General.

1 2. Respondent Michael K. Seid, M.D., ("respondent") is represented in this matter by
2 Hinshaw, Marsh, Still & Hinshaw, and Edward A. Hinshaw, Esq., 12901 Saratoga Avenue,
3 Saratoga, CA 95070.

4 3. On or about January 28, 2005, the Medical Board of California issued Physician's and
5 Surgeon's Certificate Number A90002 to Michael K. Seid, M.D. (Respondent). Said license
6 license is current and valid and, unless renewed, will expire on October 31, 2010.

7 **JURISDICTION**

8 4. Accusation No. 03-2009-202059 was filed before the Board and is currently pending
9 against respondent. The Accusation, together with all other statutorily required documents, was
10 duly served on respondent. A copy of Accusation No. 03-2009-202059 is attached as Exhibit A
11 and incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read and understands the charges and allegations in
14 Accusation No. 03-2009-202059. Respondent has also carefully read and understands the effects
15 of this Stipulated Settlement and Disciplinary Order.

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

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

25 **ACKNOWLEDGMENTS**

26 8. Respondent admits the truth of the matter set forth in the Accusation. Respondent
27 hereby gives up his right to contest these charges and he agrees that his Physician's and
28

1 Surgeon's Certificate is subject to discipline pursuant to sections 2234 and 2239 of the Business
2 and Professions Code.

3 9. Respondent desires and agrees to surrender his physician's and surgeon's certificate
4 for the Board's formal acceptance, thereby giving up his right to practice medicine in the State of
5 California.

6 **RESERVATION**

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

11 **CONTINGENCY**

12 11. This Stipulation shall be subject to the approval of the Board. Respondent
13 understands and agrees that Board staff and counsel for complainant may communicate directly
14 with the Board regarding this stipulation, without notice to or participation by respondent or his
15 counsel. If the Board fails to adopt this Stipulation as its Order in this matter, the Stipulation
16 shall be of no force or effect; it shall be inadmissible in any legal action between the parties; and
17 the Board shall not be disqualified from further action in this matter by virtue of its consideration
18 of this Stipulation.

19 **STIPULATION AND ORDER**

20 **IT IS THEREFORE STIPULATED AND ORDERED** as follows:

21 1. **SURRENDER** Respondent hereby agrees to surrender his wall and wallet
22 physician's and surgeon's certificates and all other indicia of his right to practice medicine in the
23 State of California to the Board or its representative on or before the effective date of this
24 decision, and the Board agrees to accept this surrender in resolution of this matter.

25 2. **REINSTATEMENT** Respondent fully understands and agrees that if he ever files
26 an application for re-licensure or reinstatement in the State of California, the Board shall treat it
27 as a petition for reinstatement. Respondent must comply with all the laws, regulations and
28 procedures for reinstatement of a revoked license in effect at the time any petition is filed, and all

1 of the allegations and causes for discipline contained in Accusation No. 03-2009-202059 will be
2 deemed to be true, correct and admitted by respondent for purposes of the Board's determination
3 whether to grant or deny the petition. Respondent agrees that he will not petition for
4 reinstatement for at least three (3) years following the effective date of this decision. Respondent
5 hereby waives any time-based defense he might otherwise have to the charges contained in
6 Accusation No. 03-2009-202059 including, but not limited to, the equitable defense of laches.

7 3. Respondent understands that by signing this stipulation, he is enabling the Board to
8 issue its order accepting the surrender of his license without further process. He further
9 understands that upon acceptance of this stipulation by the Board, he will no longer be permitted
10 to practice as a physician and surgeon in California.

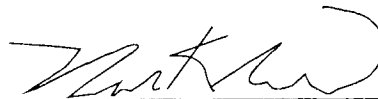
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ACCEPTANCE

I, Michael K. Seid, M.D., have carefully read the above stipulation and enter into it freely and voluntarily and with full knowledge of its force and effect, do hereby agree to surrender my physician's and surgeon's certificate no. A90002 to the Medical Board of California for its formal acceptance. By signing this stipulation to surrender my license, I recognize that as of the effective date of its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Board both my license and wallet certificate on or before the effective date of the decision.

DATED: 9/24/2010



MICHAEL K. SEID, M.D.
Respondent

I have read and fully discussed with respondent Michael K. Seid, M.D., the terms and conditions and other matters contained in the above Stipulation for Surrender of Certificate. I approve its form and content.

DATED: HINSHAW, MARSH, STILL & HINSHAW

9/27/10



EDWARD A. HINSHAW
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulation for Surrender of Certificate is hereby respectfully submitted for consideration by the Medical Board of California, Department of Consumer Affairs.

Dated: 10/1/2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General



LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 03-2009-202059

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11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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12 **MICHAEL K. SEID, M.D.**
13 2452 South Bascom, Suite 255
14 Campbell, CA 95008

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
16 No. A90002

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 28, 2005, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number A90002 to Michael K. Seid, M.D. (Respondent). Said license
25 license is current and valid and, unless renewed, will expire on October 31, 2010.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Medical Board of California¹, under the
3 authority of the following laws. All references are to the Business and Professions Code unless
4 otherwise specified.

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

9 5. Section 2234 of the Code provides, in pertinent part, that the Division shall take
10 action against any licensee who is charged with unprofessional conduct. Unprofessional conduct
11 includes, but is not limited to, the following:

12 “(a) Violating or attempting to violate, directly, or assisting in or abetting the
13 violation of, or conspiring to violate, any provision of this chapter.”

14 6. Section 2239(a) of the Code provides, in pertinent part, that the excessive use,
15 consumption, or self-administration of dangerous drugs (including those prescription medications
16 defined in Section 4022 of the Code) to the extent or in such a manner as to be injurious to the
17 licensee, or to any other person, or to the public, constitutes unprofessional conduct.

18 **CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct, Excessive Use)**

20 7. Respondent is subject to disciplinary action under Business and Professions Code
21 sections 2234(a), i.e., violating provisions of this chapter, and section 2239(a), i.e., excessive use
22 of dangerous drugs to the extent or in such a manner as to be injurious to the licensee, or to any
23 other person, or to the public. The circumstances are as follows.

24 A. On or about September 28, 2009, the Board received notification from the
25 Department of Justice that respondent had been arrested on suspicion of driving under the

26 _____
27 ¹As used herein, the term “board” means the Medical Board of California. As used herein,
28 “Division of Medical Quality” shall also be deemed to refer to the board.

1 influence of alcohol and/or drugs. Laboratory testing on bodily fluid samples obtained in the
2 course of his arrest was positive for Ambien, a Schedule IV controlled substance. Respondent
3 later entered a plea of guilty to violation of Vehicle Code section 23103.5(A), i.e., reckless
4 driving, and he was placed on court probation with mandatory substance abuse education.

5 B. On or about August 30, 2010, respondent was interviewed by investigators and
6 a medical consultant for the Board. At that time, respondent advised them that he suffered from
7 insomnia due to chronic depression. Respondent stated that after he obtained prescriptions from
8 his treating physicians for Ambien, he began to routinely exceed the prescribed dosage without
9 his physicians' knowledge and respondent admitted that he soon became dependent on the drug.
10 Respondent stated that he sought out rehabilitation and that he had completed a 28-day inpatient
11 program for substance abuse in May, 2009. On the night before his arrest in August, respondent
12 admitted that he had relapsed on Ambien and that he had taken several pills of the drug from
13 samples that he maintained in his medical office. Respondent stated that he had no recall of his
14 arrest and that he believed that he had experienced an Ambien-induced blackout.

15 8. Respondent is guilty of unprofessional conduct and respondent's certificate is subject
16 to disciplinary action by reason of his excessive use of prescription medications to the extent or in
17 such a manner as to be dangerous or injurious to himself or to the public, in violation of Business
18 and Professions Code sections 2234(a), and 2239(a).

19 **PRAYER**

20 WHEREFORE, complainant prays that a hearing be held and that the Board issue an order:

- 21 1. Revoking or suspending physician and surgeon certificate number A 90002, issued to
22 Michael K. Seid, M.D.;
- 23 2. Prohibiting Michael K. Seid, M.D., from supervising a Physician's Assistant;
- 24 3. Ordering Michael K. Seid, M.D., if placed on probation, the costs of probation
25 monitoring;

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4. Taking such other and further action as may be deemed proper and appropriate.

DATED: 10/1/2010



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

Complainant

SF2009405533