

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

In the Matter of the Accusation)	
Against:)	
)	
)	
Guy Roger Gullion, M.D.)	Case No. 12-2012-226548
)	
Physician's and Surgeon's)	
Certificate No. A50284)	
)	
Respondent)	
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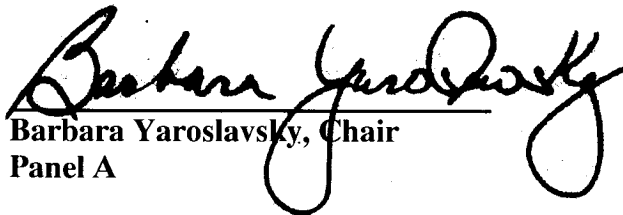
DECISION

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

This Decision shall become effective at 5:00 p.m. on January 10, 2014.

IT IS SO ORDERED: December 13, 2013.

MEDICAL BOARD OF CALIFORNIA


Barbara Yaroslavsky, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 ESTHER H. LA
Deputy Attorney General
4 State Bar No. 160706
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 12-2012-226548

11 **GUY ROGER GULLION, M.D.**
12 **P.O. Box 570**
13 **Occidental, CA 95465**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 **Physician's and Surgeon's Certificate No.**
15 **A50284**

Respondent.

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

20 PARTIES

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

25 2. Respondent Guy Roger Gullion, M.D. (Respondent) is represented in this proceeding
26 by attorney Steven Frankel, Ph.D., whose address is 3527 Mt. Diablo Blvd., #269, Lafayette, CA
27 94549.
28

1 CULPABILITY

2 9. Respondent agrees that, at an administrative hearing, Complainant could establish a
3 prima facie case with respect to the charges and allegations contained in Accusation No. 12-2012-
4 226548.

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

8 CONTINGENCY

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

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

22 13. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following
24 Disciplinary Order:

25 **DISCIPLINARY ORDER**

26 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A50284 issued
27 to Respondent Guy Roger Gullion, M.D. is revoked. However, the revocation is stayed and
28 Respondent is placed on probation for seven (7) years on the following terms and conditions.

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

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

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

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

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

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

23 The Program has the authority to determine whether or not Respondent successfully
24 completed the Program.

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

1 this Decision.

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

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

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

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

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

27 Respondent shall have the treating psychotherapist submit quarterly status reports to the
28 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric

1 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
2 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
3 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
4 period of probation shall be extended until the Board determines that Respondent is mentally fit
5 to resume the practice of medicine without restrictions.

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

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

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

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

27 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
28 date of this Decision, Respondent shall receive a notification from the Board or its designee to

1 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
2 shall cease the practice of medicine until a monitor is approved to provide monitoring
3 responsibility.

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

10 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
11 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
12 name and qualifications of a replacement monitor who will be assuming that responsibility within
13 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
14 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
15 notification from the Board or its designee to cease the practice of medicine within three (3)
16 calendar days after being so notified Respondent shall cease the practice of medicine until a
17 replacement monitor is approved and assumes monitoring responsibility.

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

24 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
25 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
26 Chief Executive Officer at every hospital where privileges or membership are extended to
27 Respondent, at any other facility where Respondent engages in the practice of medicine,
28 including all physician and locum tenens registries or other similar agencies, and to the Chief

1 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
2 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
3 calendar days.

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

5 8. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
6 prohibited from supervising physician assistants.

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

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

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

15 11. GENERAL PROBATION REQUIREMENTS.

16 Compliance with Probation Unit

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

19 Address Changes

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

25 Place of Practice

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

1 License Renewal

2 Respondent shall maintain a current and renewed California physician's and surgeon's
3 license.

4 Travel or Residence Outside California

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

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

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

14 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
15 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
16 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
17 defined as any period of time Respondent is not practicing medicine in California as defined in
18 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
19 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
20 time spent in an intensive training program which has been approved by the Board or its designee
21 shall not be considered non-practice. Practicing medicine in another state of the United States or
22 Federal jurisdiction while on probation with the medical licensing authority of that state or
23 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
24 not be considered as a period of non-practice.

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

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

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

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

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

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

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

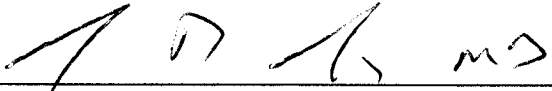
27 17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
2 California and delivered to the Board or its designee no later than January 31 of each calendar
3 year.

4 ACCEPTANCE

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

10
11 DATED: October 7, 2013


12 GUY ROGER GULLION, M.D.
13 Respondent

14 I have read and fully discussed with Respondent Guy Roger Gullion, M.D. the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
16 I approve its form and content.

17
18 DATED: 10/9/13


19 STEVEN FRANKEL
20 Attorney for Respondent

21
22 ENDORSEMENT

23 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
24 submitted for consideration by the Medical Board of California of the Department of Consumer
25 Affairs.

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Dated: Oct 16, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General



ESTHER H. LA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 12-2012-226548

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 1 2013
BY: R. Martel ANALYST

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

In the Matter of the Accusation Against:
GUY ROGER GULLION, M.D.
P.O. Box 570
Occidental, CA 95465
Physician's and Surgeon's Certificate
No. A50284
Respondent.

Case No. 12-2012-226548

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 Interim Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about December 17, 1991, the Medical Board of California issued Physician's and Surgeon's Certificate Number A50284 to Guy Roger Gullion, 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 August 31, 2013, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Medical Board of California (Board),¹
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2004 of the Code states, in relevant part:

6 “The board shall have the responsibility for the following:

7 “(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
8 Act.

9 “(b) The administration and hearing of disciplinary actions.

10 “(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
11 administrative law judge.

12 “(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
13 disciplinary actions.

14 “(e) Reviewing the quality of medical practice carried out by physician and surgeon
15 certificate holders under the jurisdiction of the board.”

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

20 6. Section 2234 of the Code states, in relevant part:

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

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

26 “(b) Gross negligence.

27 ¹ The term “Board” means the Medical Board of California; “Division of Medical
28 Quality” shall also be deemed to refer to the Board.

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

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

6 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
7 constitutes the negligent act described in paragraph (1), including, but not limited to, a
8 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
9 applicable standard of care, each departure constitutes a separate and distinct breach of the
10 standard of care.”

11 7. Section 726 of the Code states:

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

16 “This section shall not apply to sexual contact between a physician and surgeon and his or
17 her spouse or person in an equivalent domestic relationship when that physician and surgeon
18 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person
19 in an equivalent domestic relationship.”

20 8. The American Psychiatric Association’s Principles of Medical Ethics with
21 Annotations Especially Applicable to Psychiatry (2009 Revision) provides, in the annotations to
22 Section 2 as follows:

23 “The requirement that the physician conduct himself/herself with propriety in his
24 or her profession and in all the actions of his or her life is especially important in the case of
25 the psychiatrist because the patient tends to model his or her behavior after that of his or her
26 psychiatrist by identification. Further, the necessary intensity of the treatment relationship
27 may tend to activate sexual and other needs and fantasies on the part of both patient and
28 psychiatrist, while weakening the objectivity necessary for control. Additionally, the
inherent inequality in the doctor-patient relationship may lead to exploitation of the patient.
Sexual activity with a current or former patient is unethical.”

1 FACTUAL BACKGROUND

2 9. On or about August 31, 2012, the Board received a consumer complaint from S.V.,²
3 who alleged that Respondent, her psychiatrist, had hired her for a massage and engaged in sexual
4 misconduct during the massage session. S.V. also alleged that Respondent had engaged in other
5 inappropriate behavior during treatment sessions, including telling S.V. that she was stunningly
6 beautiful, telling her that their relationship was bigger than the confines of the walls of the office,
7 asking S.V. whether she would be willing to give him a massage, hugging her at the end of their
8 sessions, and telling her that she made his day.

9 10. Respondent first saw S.V. for a psychiatric evaluation on or about March 25, 2011.
10 She was referred to Respondent by K.N., a licensed marriage and family therapist. S.V.
11 complained of being very emotional, and she reported a history of two to three psychiatric
12 hospitalizations between 2008 and 2010. She also reported a history of childhood abuse and
13 trauma. Respondent's diagnosis was: rule out post traumatic stress disorder; rule out bipolar I
14 disorder; and rule out psychosis NOS. Respondent noted in his treatment plan that if S.V.
15 continued to have "melt downs," then he would consider prescribing Abilify, an antipsychotic.
16 Subsequent treatment notes from May 2011 through July 2012 indicate that Respondent saw S.V.
17 approximately once a month for talk therapy and that he prescribed Abilify. Respondent also
18 communicated regularly with K.N. regarding their care of S.V.

19 11. In or about the spring of 2012, Respondent gave \$200.00 in cash to S.V. when she
20 stated that she could not afford her daughter's school pictures. In return, S.V. gave Respondent
21 two gift certificates for massages.

22 12. On or about August 22, 2012, Respondent went to S.V.'s place of business where she
23 worked as a massage therapist and made an appointment to receive a massage from S.V. later in
24 the day. He also spoke with K.N. who had an office in the same building as S.V. . K.N.
25 informed Respondent that S.V. had been distraught because of a friend's death. Respondent did
26 not tell K.N. about his massage appointment with S.V. When Respondent appeared for the

27 _____
28 ² The patient's name and other witness names are abbreviated to protect their privacy.

1 massage session, he told S.V. that he had spoken with K.N. and knew that she had been recently
2 upset. He then disrobed in front of S.V. and exposed his genitals. He then laid face down on the
3 massage table, exposing his buttocks. When S.V. began massaging him, Respondent stated that
4 he liked reversing roles like this, and he began to gyrate his hips and he reached for her legs
5 several times. After several minutes, S.V. left the room and reported Respondent's conduct to her
6 manager.

7 13. Respondent was interviewed by a Board Investigator and a Board Medical Consultant
8 on January 15, 2013. Respondent admitted during the interview that he had requested and
9 received a massage from S.V. on August 22, 2012. He admitted that he had been naked in front
10 of S.V. He acknowledged that his conduct was a clear ethics and boundary violation. He also
11 admitted that he had given \$200.00 to S.V. and acknowledged that that was also a boundary
12 violation.

13 FIRST CAUSE FOR DISCIPLINE

14 (Boundary Violations/Gross Negligence/Repeated Negligent Acts/Violation of Ethical Standards)

15 14. Paragraphs 9 through 13 are incorporated herein by reference as if fully set forth.

16 15. Respondent is subject to disciplinary action under section 2234 and/or 2234(b) and/or
17 2234(c) of the Code in that he failed to establish and maintain professional boundaries with
18 patient S.V., including but not limited to, committing the following acts:

19 A. Respondent gave \$200.00 to S.V.

20 B. Respondent hugged S.V. after therapy sessions and told her that she made his day.

21 C. Respondent told S.V. that she was stunningly beautiful.

22 D. Respondent told S.V. that their relationship was bigger than the confines of the office
23 walls.

24 E. Respondent asked S.V. whether she was willing to give him a massage.

25 F. Respondent hired S.V. to give him a massage.

26 G. Respondent undressed in front of S.V. and exposed his genitals to her.

