

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

In the Matter of the Accusation)
Against:)
)
MILTON PEECHUAN HUANG, M.D.)
)
Physician's and Surgeon's)
Certificate No. CFE 50791)
)
Respondent.)
_____)

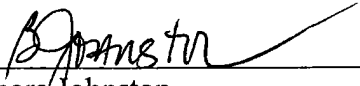
File No. 03-2008-189734

DECISION

The attached Stipulation for Surrender of Physician and Surgeon's Certificate and Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California as its Decision in the above entitled matter.

This Decision shall become effective at **5:00 p.m. on December 24, 2009**

IT IS SO ORDERED December 17, 2009



Barbara Johnston
Executive Director

1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 RUSSELL W. LEE
Deputy Attorney General
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 03-2008-189734

14 **MILTON PEECHUAN HUANG, M.D.**
15 **P.O. Box 904**
Soquel, CA 95073

**STIPULATION FOR SURRENDER OF
PHYSICIAN AND SURGEON'S
CERTIFICATE AND ORDER**

16 **Physician and Surgeon's Certificate Nos.**
17 **No. C50791 and CFE50791**

18 Respondent.

19
20 In the interest of a prompt and speedy resolution of this matter, consistent with the public
21 interest and the responsibility of the Medical Board of California ("Medical Board"), the parties
22 hereby agree to the following Stipulation for Surrender of Physician and Surgeon's Certificate
23 and Order ("Stipulation for Surrender and Order") which will be submitted to the Medical Board
24 for approval and adoption as the final disposition of the Accusation.

25 PARTIES

26 1. Barbara Johnston (Complainant) is the Executive Director of the Medical Board of
27 California and brought this action solely in her official capacity. Complainant is represented in
28

1 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Russell W.
2 Lee, Deputy Attorney General.

3 2. Milton Peechuan Huang, M.D. ("respondent" or "Dr. Huang") is represented in this
4 proceeding by his counsel, John L. Fleeer, Esq., Attorney at Law, whose address is 1850 Mt.
5 Diablo Boulevard, Suite 120, Walnut Creek, CA 94596.

6 3. On or about March 8, 2002, the Medical Board issued Physician's and Surgeon's
7 Certificate Number C50791 to Dr. Huang. Currently, said Physician's and Surgeon's Certificate is
8 in Voluntary Service Status under Certificate No. CFE50791. Physician's and Surgeon's
9 Certificate C50791 was in full force and effect at all times relevant to the charges brought herein
10 and will expire on March 31, 2010, unless renewed.

11 JURISDICTION

12 4. Accusation No. 03-2008-189734 was filed before the before the Medical Board on
13 November 6, 2008, and is currently pending against respondent. The Accusation and all other
14 statutorily required documents were properly served on respondent on November 6, 2008.
15 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
16 No. 03-2008-189734 is attached as Exhibit A and incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 5. Dr. Huang has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 03-2008-189734. Dr. Huang also has carefully read,
20 fully discussed with counsel, and understands the effects of this Stipulation for Surrender and
21 Order.

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

1 7. Dr. Huang voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 CULPABILITY

4 8. Respondent understands that the charges and allegations in Accusation No. 03-2008-
5 189734, if proven at a hearing, constitute cause for imposing discipline upon his Physician and
6 Surgeon's Certificate.

7 9. Dr. Huang wishes to resolve this matter without the expense and uncertainty of
8 further proceedings. He agrees that, at a hearing, complainant could establish a factual basis for
9 the charges in the Accusation and that those charges constitute cause for discipline pursuant to
10 Business and Professions Code section 726. Dr. Huang hereby gives up his right to contest that
11 cause for discipline exists based on those charges.

12 10. Dr. Huang understands that by signing this Stipulation for Surrender and Order he
13 enables the Medical Board to issue an Order accepting the surrender of his Physician's and
14 Surgeon's Certificate without further process.

15 RESERVATION

16 11. The admissions made by Dr. Huang herein are only for the purposes of this
17 proceeding, or any other proceedings in which the Medical Board of California or other
18 professional licensing agency is involved, and shall not be admissible in any other criminal or
19 civil proceeding.

20 CONTINGENCY

21 12. This Stipulation for Surrender and Order shall be subject to approval by the Medical
22 Board. Respondent understands and agrees that counsel for complainant and the staff of the
23 Medical Board may communicate directly with the Medical Board regarding this Stipulation for
24 Surrender and Order, without notice to or participation by respondent or his counsel. By signing
25 the Stipulation for Surrender and Order, respondent understands and agrees that he may not
26 withdraw his agreement or seek to rescind the Stipulation For Surrender and Order prior to the
27 time the Medical Board considers and acts upon it. If the Medical Board fails to adopt this
28 Stipulation For Surrender and Order as its Decision and Order, the Stipulation for Surrender and

1 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
2 action between the parties, and the Medical Board shall not be disqualified from further action by
3 having considered this matter.

4 13. The parties understand and agree that facsimile copies of this Stipulation for
5 Surrender and Order, including facsimile signatures thereto, shall have the same force and effect
6 as the originals.

7 IN CONSIDERATION of the foregoing admissions and stipulations, the parties agree that
8 the Medical Board may, without further notice or formal proceeding, issue and enter the
9 following Order:

10 **ORDER**

11 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C50791
12 (whether in Full Active Status or in Voluntary Service Status as CFE50791 or in other status
13 recognized by the Medical Board), issued to Respondent Milton Peechuan Huang, M.D. is
14 surrendered and accepted by the Medical Board of California.

15 1. Respondent shall lose all rights and privileges as a physician and surgeon in
16 California as of the effective date of the Medical Board's Decision and Order.

17 2. Respondent shall cause to be delivered to the Medical Board both his wall license
18 certificate and, if one was issued, pocket license, on or before the effective date of the Decision
19 and Order.

20 3. Respondent fully understands and agrees that if he ever files an application for
21 licensure or a petition for reinstatement in the State of California, the Medical Board shall treat it
22 as a petition for reinstatement. Respondent must comply with all the laws, regulations and
23 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
24 of the charges and allegations contained in Accusation No. 03-2008-189734 shall be deemed to
25 be true, correct and admitted by respondent when the Medical Board determines whether to grant
26 or deny the petition. Respondent may file a petition for reinstatement after a period of not less
27 than two years after the effective date of the Decision and Order.

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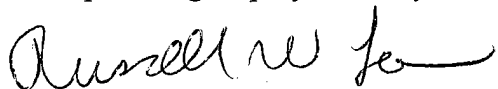
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ENDORSEMENT

The foregoing Stipulation for Surrender of Physician and Surgeon's Certificate and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 12-10-09

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



RUSSELL W. LEE
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 03-2008-189734

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 RUSSELL W. LEE
Deputy Attorney General, State Bar No. 94106
4 California Department of Justice
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 03-2008-189734

13 MILTON PEECHUAN HUANG, M.D.
P.O. Box 904
14 Soquel, CA 95073

A C C U S A T I O N

15 Physician's and Surgeon's Certificate
No. CFE50791

16 Respondent.
17

18 Complainant alleges:
19

20 **PARTIES**

- 21 1. Barbara Johnston (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California.
23 2. On or about March 8, 2002, the Medical Board of California issued Physician's
24 and Surgeon's Certificate Number C50791 to Milton Pechuan Huang, M.D. ("respondent" or
25 "Dr. Huang"). Currently, said Physician's and Surgeon's Certificate is in Voluntary Service
26 Status under Certificate No. CFE50791. This Physician's and Surgeon's Certificate was in full
27 force and effect at all times relevant to the charges brought herein and will expire on March 31,
28 2010, unless renewed.

1 JURISDICTION

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

5 4. Section 2004 of the Code provides, pertinent part, that the Medical Board shall
6 have responsibility for:

7 (a) The enforcement of the disciplinary and criminal provisions of the Medical
8 Practice 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
19 other action taken in relation to discipline as the Board deems proper.

20 6. Section 2234 of the Code provides:

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

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1. The term "board" means the Medical Board of California. "Division of Medical Quality" shall also be deemed to refer to the board. (Bus. & Prof. Code §2002)

1 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
2 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter
3 5, the Medical Practice Act].

4 "(b) Gross negligence.

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

9 "(1) An initial negligent diagnosis followed by an act or omission
10 medically appropriate for that negligent diagnosis of the patient shall constitute a single
11 negligent act.

12 "(2) When the standard of care requires a change in the diagnosis, act, or
13 omission that constitutes the negligent act described in paragraph (1), including, but not
14 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
15 conduct departs from the applicable standard of care, each departure constitutes a separate
16 and distinct breach of the standard of care.

17 "(d) Incompetence.

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

20 "(f) Any action or conduct which would have warranted the denial of a
21 certificate."

22 7. Section 726 of the Code provides in part, that the commission of any act of sexual
23 abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional
24 conduct and grounds for disciplinary action for any person licensed under this division, under any
25 initiative act referred to in this division and under Chapter 17 (commencing with Section 9000)
26 of Division 3.

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1 8. Section 729 of the Code provides as follows:

2 "Sexual Exploitation

3 "(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse
4 counselor or any person holding himself or herself out to be a physician and surgeon,
5 psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual
6 intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a
7 former patient or client when the relationship was terminated primarily for the purpose of
8 engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and
9 drug abuse counselor has referred the patient or client to an independent and objective
10 physician and surgeon, psychotherapist, or alcohol and drug abuse counselor
11 recommended by a third-party physician and surgeon, psychotherapist, or alcohol and
12 drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and
13 surgeon, psychotherapist, or alcohol and drug abuse counselor.

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

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

21 "(c) For purposes of this section:

22 (1) "Psychotherapist" has the same meaning as defined in Section
23 728.

24 (2) "Alcohol and drug abuse counselor" means an individual who
25 holds himself or herself out to be an alcohol or drug abuse professional or
26 paraprofessional.

27 (3) "Sexual contact" means sexual intercourse or the touching of an
28 intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

1 (4) "Intimate part" and "touching" have the same meanings as
2 defined in Section 243.4 of the Penal Code."

3 **MEDICAL BOARD INVESTIGATION**

4 9. On or about February 15, 2008, the Medical Board received a Business and
5 Professions Code section 805 Health Facility Reporting Form from the University of California
6 at Santa Cruz (UCSC) Student Health Center indicating that Dr. Huang resigned after being
7 suspended and placed under investigation over allegations that he had sexual contact with a
8 patient. UCSC provided a time-line of the incident and placed Dr. Huang on investigative leave.
9 Dr. Huang resigned from staff while under investigation by UCSC.

10 10. During the investigation by UCSC in January 2008, Dr. Huang acknowledged that
11 he had engaged in a "boundary violation" with an adult female patient, including acts of physical
12 intimacy starting in Dr. Huang's office, and continuing in meetings outside of his office.

13 11. On July 29, 2008, a Medical Board Investigator interviewed Dr. Huang at the
14 Medical Board's San Jose District Office. Also present was Dr. Huang's attorney Tom Donnelly.
15 The following was discussed:

16 A. Dr. Huang said the patient in this case is a 21 year-old, UCSC female
17 student, hereinafter referred to as Patient A.² He said Patient A. was seeing other doctors at the
18 Student Health Center for various medical reasons and was referred to him in January or
19 February 2007. Dr. Huang, acting in the capacity of a psychiatrist or psychotherapist, indicated
20 that he had approximately 8 or 9 therapy sessions with Patient A. at UCSC dealing with her
21 eating disorder and a focus on relationships. He described the sessions as strictly professional
22 and recalled on one occasion that Patient A. had told him that she was sexually attracted to him.
23 Dr. Huang said that she was taking Prozac prior to being referred to him and he continued to
24 prescribe it for her. He said it was the only prescription he ever wrote for her.

25 B. Dr. Huang advised that during the summer break at UCSC the students
26 have a choice to receive continued medical care with Chief Campus Psychiatrist, Dr. Peter
27

28 2. The full name of Patient A. will be disclosed upon a proper Request For Discovery.

1 Holland, or be referred to private care off-campus. Dr. Huang said Patient A. chose to see Dr.
2 Holland during the month of July, but later wished to be transferred to his (Dr. Huang's) private
3 practice and did so in August 2007.

4 C. Dr. Huang said Patient A. was first seen at his private practice on August
5 13, 2007 and again on August 17th, 24th, 27th and 31st all scheduled for 50 minute sessions. He
6 said when college resumed in September, Patient A.'s therapy sessions were reduced to once a
7 week, Friday, and continued until December 14, 2007. Dr. Huang said November marked the
8 beginning of his sexual misconduct/boundary crossing and continued until December 21, 2007.

9 D. Dr. Huang described his November 2, 2007 therapy session with Patient
10 A. as being one of "self-revelation" because they discussed each others thoughts and emotions.
11 He said he believes now that this was his first boundary crossing. Dr. Huang said that Patient A.
12 told him it was difficult having sexual feelings about him. He described Patient A. as very
13 bright, liked to tease him regarding his boundaries and as someone who understood him. Dr.
14 Huang said up to this point he was able to maintain separation physically from Patient A. but
15 more feelings for her were coming out.

16 E. Dr. Huang said that during the November 9, 2007 therapy session, Patient
17 A. accused him of being afraid of physical intimacy. He said he sat on the couch next to her but
18 denied any physical contact. Dr. Huang said he and Patient A. began speaking on the telephone
19 and sending text messages to each other several times a week discussing their families and past
20 histories.

21 F. Dr. Huang admitted to hugging, kissing and touching intimate parts of
22 Patient A.'s body during the November 16, 2007 therapy session at his private practice. Dr.
23 Huang said they were completely naked, hugged, caressed, that "she would writhe up against
24 me," and that "I touched her bare breasts."

25 G. Dr. Huang said that during the November 23, 2007 therapy session he
26 handed Patient A. the "Professional Therapy Never Includes Sex" booklet and said her response
27 was, "Shouldn't we have sex first?"

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1 H. Dr. Huang described the last two therapy sessions at his private practice on
2 November 30 and December 14, 2007, as "emotionally tense." He said they discussed
3 terminating the doctor/patient relationship. He said Patient A. had told him that she had made an
4 appointment to see another therapist but hoped to see Dr. Huang in a nonprofessional manner.
5 He said they agreed to meet one more time on December 21, 2007, at his office. Dr. Huang said
6 that Patient A. had called him prior to the appointment and wanted him to come by her off-
7 campus apartment instead of his office. He accepted this offer.

8 I. On December 21, 2007, Dr. Huang said he drove to Patient A.'s apartment
9 in Santa Cruz and arrived between 1500 and 1600 hours. He said after entering her apartment
10 they exchanged gifts. Dr. Huang said they eventually went to Patient A.'s bedroom where they
11 both fully disrobed. Dr. Huang admitted an act of oral copulation was committed when "she put
12 my penis in her mouth." He said this "was the only time we had oral sex." Dr. Huang said they
13 mutually agreed that this would be their last contact. He said he recalled Patient A. taking a
14 picture of him in the parking lot of her apartment complex "standing in front of her car" prior to
15 him leaving. Dr. Huang said this was the last time he ever saw or spoke with Patient A.

16 J. Dr. Huang said during the months of November and December he had met
17 Patient A. approximately 3 separate times for walks in her neighborhood or at the park where
18 they would kiss and hold hands. He said all sessions were billed for 50 minutes except for the
19 December 14 and December 21 sessions which he termed "informal."

20 CAUSES FOR DISCIPLINE

21 (Patient A.)

22 12. Respondent is subject to disciplinary action under sections 2234 (general
23 unprofessional conduct), and/or 2234(b) and/or 2234(c) and/or 2234(d) and/or 726 and/or
24 2234(a) in conjunction with 729 of the Code, in that he committed the following acts or
25 omissions in his treatment of Patient A.:

26 A. Respondent engaged in acts of unprofessional conduct, including boundary
27 violations, by dating Patient A. outside of Dr. Huang's office or at Patient A.'s apartment,
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1 sharing personal information, and/or otherwise becoming verbally, emotionally, and/or physically
2 intimate with Patient A.; and/or

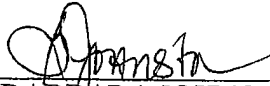
3 B. Respondent engaged in acts of unprofessional conduct, sexual abuse,
4 sexual misconduct, and/or sexual contact by disrobing and hugging, kissing and touching
5 intimate parts of Patient A.'s body, and/or by engaging in acts of oral copulation.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Medical Board issue a decision:

- 9 1. Revoking or suspending Physician's and Surgeon's Certificate Numbers
10 CFE50791 and C50791, issued to respondent Milton Peechuan Huang, M.D.;
- 11 2. Revoking, suspending or denying approval of respondent's authority to supervise
12 physician assistants, pursuant to section 3527 of the Code;
- 13 3. Ordering respondent, if placed on probation, to pay the costs of probation
14 monitoring; and
- 15 4. Taking such other and further action as deemed necessary and proper.

16
17 DATED: November 6, 2008

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19 
20 _____
21 BARBARA JOHNSTON
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant
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