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

In the Matter of the First Amended Accusation Against:
Jeffrey R. Dell, M.D.
Physician's and Surgeon's Certificate No. G 39875
Respondent

Case No. 04-2009-198738

DECISION

The attached Proposed 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 26, 2012

IT IS SO ORDERED: December 27, 2011

MEDICAL BOARD OF CALIFORNIA

Shelton Durusseau, Ph.D., Chair
Panel A
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

JEFFREY R. DELL, M.D.
100 Valencia Mesa Drive, Suite 206
Fullerton, CA 92635

Physician's and Surgeon's Certificate
No. G 39875,

Respondent.

Case No. 04-2009-198738
OAH No. 2011040084

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

PARTIES

1. Linda K. Whitney (hereinafter "complainant") is the Executive Director of the Medical Board of California and is represented herein by Kamala D. Harris, Attorney General of the State of California, by Matthew M. Davis, Deputy Attorney General.

2. Respondent Jeffrey R. Dell, M.D. (hereinafter "respondent"), is represented in this proceeding by attorney Mark A. Levin, Esq., whose address is 11377 W. Olympic Blvd., 5th Fl., Los Angeles, CA 90064-1683
JURISDICTION

3. On or about July 2, 1979, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number G 39875 to respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges and allegations in First Amended Accusation No. 04-2009-198738 and will expire on February 28, 2013, unless renewed.

4. On September 30, 2010, Complainant Linda K. Whitney, in her official capacity as the Executive Director of the Board, filed Accusation No. 04-2009-198738 against respondent. On September 30, 2010, respondent was served with a true and correct copy of Accusation No. 04-2009-198738, together with true and correct copies of all other statutorily required documents, at his address of record then on file with the Board: 100 Valencia Mesa Drive, Suite 206, Fullerton, CA 92635. On or about October 5, 2010, respondent filed a Notice of Defense and requested a hearing on the charges and allegations contained in Accusation No. 04-2009-198738.

5. On June 3, 2011, Complainant Linda K. Whitney, in her official capacity as the Executive Director of the Board, filed First Amended Accusation No. 04-2009-198738 against respondent. On June 3, 2011, respondent was served with a true and correct copy of First Amended Accusation No. 04-2009-198738, together with true and correct copies of all other statutorily required documents, at his address of record then on file with the Board: 100 Valencia Mesa Drive, Suite 206, Fullerton, CA 92635. A true and correct copy of the First Amended Accusation No. 04-2009-198738 is attached hereto as Attachment "A" and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation No. 04-2009-198738. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.
7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in First Amended Accusation No. 04-2009-198738; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act, the California Code of Civil Procedure and other applicable laws, having been fully advised of same by his attorney of record, Mark A. Levin, Esq.

8. Respondent, having the benefit of counsel, hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in First Amended Accusation No. 04-2009-198738, a true and correct copy of which is attached hereto as Attachment "A," and that he has thereby subjected his Physician's and Surgeon's Certificate No. G 39875 to disciplinary action. Respondent further agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 04-2009-198738 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California.

CONTINGENCY

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.
12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

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

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

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 39875 issued to Respondent Jefferey R. Dell, M.D., (respondent) is revoked. However, the revocation is stayed and respondent is placed on probation for five (5) years from the effective date of this decision on the following terms and conditions.

1. MEDICAL RECORDS KEEPING COURSE. Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in medical record keeping, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation. A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation.

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

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

3. **ETHICS COURSE** Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in ethics, at respondent’s expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

   An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

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

   Failure to complete the entire Program not later than six months after respondent’s initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on respondent’s performance in and evaluations

Stipulated Settlement and Disciplinary Order
from the assessment, education, and training, the Program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely. Respondent shall comply with Program recommendations. At the completion of the Program, respondent shall submit to a final evaluation. The Program shall provide the results of the evaluation to the Board or its designee. The Program’s determination whether or not respondent successfully completed the Program shall be binding.

Failure to participate in and complete successfully all phases of the Program, as outlined above, is a violation of probation.

5. THIRD PARTY CHAPERONE During probation, respondent shall have a third party chaperone present while consulting, examining or treating female patients. Respondent shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third party chaperone.

Each third party chaperone shall initial and date each patient medical record at the time the chaperone’s services are provided. Each third party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party chaperone.

Respondent shall maintain a log of all patients seen for whom a third party chaperone is required. The log shall contain the: 1) patient name, address and telephone number; 2) medical record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation. Failure to maintain a log of all patients requiring a third party chaperone, or to make the log available for immediate inspection and copying on the premises, is a violation of probation.

Respondent shall provide written notification to respondent’s patients that a third party chaperone shall be present during all consultations, examination, or treatment with (e.g., male, female or minor) patients. Respondent shall maintain in the patient’s file a copy of the
written notification, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the notification for the entire term of probation.

6. NOTIFICATION Prior to engaging in the practice of medicine, the respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

7. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, respondent is prohibited from supervising physician assistants. This term and condition of probation shall not apply as long as respondent works in a hospital setting as an emergency room physician, however, it shall apply if respondent works in any other setting.

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

9. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. PROBATION UNIT COMPLIANCE Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office
box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of medicine in respondent’s place of residence. Respondent shall maintain a current and renewed California physician’s and surgeon’s license.

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

11. INTERVIEW WITH THE BOARD, OR ITS DESIGNEE Respondent shall be available in person for interviews either at respondent’s place of business or at the probation unit office, with the Board or its designee, upon request at various intervals, and either with or without prior notice throughout the term of probation.

12. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.
Respondent's license shall be automatically cancelled if respondent's periods of
temporary or permanent residence or practice outside California total two years. However,
respondent's license shall not be cancelled as long as respondent is residing and practicing
medicine in another state of the United States and is on active probation with the medical
licensing authority of that state, in which case the two year period shall begin on the date
probation is completed or terminated in that state.

13. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

In the event respondent resides in the State of California and for any reason respondent stops
practicing medicine in California, respondent shall notify the Board or its designee in writing
within 30 calendar days prior to the dates of non-practice and return to practice. Any period of
non-practice within California, as defined in this condition, will not apply to the reduction of the
probationary term and does not relieve respondent of the responsibility to comply with the terms
and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar
days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of
the Business and Professions Code.

All time spent in an intensive training program which has been approved by the
Board or its designee shall be considered time spent in the practice of medicine. For purposes of
this condition, non-practice due to a Board-ordered suspension or in compliance with any other
condition of probation, shall not be considered a period of non-practice.

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

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

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

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

17. PROBATION MONITORING COSTS Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

ACCEPTANCE

I, Jeffrey R. Dell, M.D., have carefully read this Stipulated Settlement and Disciplinary Order and, having the benefit of counsel, enter into it freely, voluntarily, intelligently, and with full knowledge of its force and effect on my Physician's and Surgeon's Certificate No. G 39875. I fully understand that, after signing this stipulation, I may not withdraw from it, that it shall be submitted to the Medical Board of California for its acceptance.
consideration, and that the Board shall have a reasonable period of time to consider and act on this stipulation after receiving it. By entering into this stipulation, I fully understand that, upon acceptance by the Board, my Physician's and Surgeon's Certificate No. G 39875 will be revoked, with the revocation stayed, and I shall be placed on probation and required to comply with all of the terms and conditions of the Disciplinary Order set forth above. I also fully understand that any failure to comply with the terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and a violation or violations of probation, will subject to my Physician's and Surgeon's Certificate No. G 39875 to further disciplinary action and, in addition, that the Board, after giving me notice and opportunity to be heard, may carry out the disciplinary order that was stayed, i.e., revocation of my Physician's and Surgeon's Certificate No. G 39875.

DATED: 10/13/11

JEFFREY R. DELL, M.D.
Respondent

I have read and fully discussed with Respondent JEFFREY R. DELL, 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: October 13, 2011

MARK A. LEVIN, ESQ.
Attorney for Respondent
ENDORSEMENT

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

DATED: 10/17/11

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General

MATTHEW M. DAVIS
Deputy Attorney General
Attorneys for Complainant
Attachment "A"

First Amended Accusation and Petition to Revoke Probation No. 04-2009-198738
In the Matter of the First Amended Accusation
Against:

JEFFREY R. DELL, M.D.
100 Valencia Mesa Drive, Suite 206
Fullerton, CA 92635

Physician’s and Surgeon’s Certificate
No. G 39875,
Respondent.

Complainant alleges:

PARTIES

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

2. On or about July 2, 1979, the Medical Board of California (Board) issued Physician’s and Surgeon’s Certificate Number G 39875 to Jeffrey R. Dell, 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 February 28, 2013, unless renewed.
JURISDICTION

3. This First Amended Accusation, which supersedes the Accusation filed on September 30, 2010, in the above-entitled matter, is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

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

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

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

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

“(4) Be publicly reprimanded by the division.

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

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”
5. Section 2234 of the Code states:

"The Division of Medical Quality\(^1\) shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"..."

"(b) Gross negligence.

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

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

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

"..."

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

"..."

\[^1\text{California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Bus. \\
& Prof. Code, §§ 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical \\
Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.\]
6. Section 2242 of the Code states:

   "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

   "(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

        "(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

        "(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

                "(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

                "(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

        "(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

        "(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."
7. Section 2238 of the Code states:

"A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct."

8. Section 2261 of the Code states:

"Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

9. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

10. Section 726 of the Code states:

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

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

11. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an
unfitness to practice medicine. (Shea v. Board of Medical Examiners (1978) 81 Cal.App.3d 564, 575.)

**FIRST CAUSE FOR DISCIPLINE**

*(Sexual Abuse, Misconduct, or Relations with a Patient)*

12. Respondent is subject to disciplinary action under section 726 of the Code in that he has engaged in sexual abuse, misconduct, or relations with patient T.J. between on or about September 30, 2000, and on or about September 30, 2010, as more particularly alleged hereinafter:

(a) Respondent began treating patient T.J. as her primary care physician in or about February, 1995. In or about May, 1998, patient T.J. presented to respondent complaining of anxiety and emotional difficulty resulting from the break-up of her 18-year marriage. Respondent issued a prescription for Xanax and asked patient T.J. to return for a follow-up visit in a week.

(b) Patient T.J. returned for a follow-up visit, at which time respondent expressed his interest in patient T.J.’s work and recent travels. Later that afternoon, respondent called patient T.J. and asked if she would like to join him after work for a glass of wine. On or about May 27, 1998, respondent and patient T.J. dined together at the Orange County Mining Company restaurant. Respondent and patient T.J. held hands during the dinner, and respondent kissed patient T.J. and fondled her breasts in the parking lot after dinner. Respondent and patient T.J. began dating, and respondent and patient T.J. had sexual intercourse in mid-July, 1998, at the Embassy Suites hotel in Anaheim.

(c) Respondent and patient T.J. broke up several times during the first four years of their relationship, due to patient T.J.’s perception that respondent did not appear committed to their relationship. In the spring of 2002, however, respondent agreed to make their relationship permanent and bought an engagement ring for patient T.J., but no date for a wedding was ever set.

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2 Conduct occurring prior to September 30, 2000, is for informational purposes only, and is not alleged as a basis for disciplinary action.
(d) On or about July 4, 2008, patient T.J. received a phone call from a woman who identified herself as T.A. T.A. told patient T.J. that respondent and T.A. had been having a sexual relationship for the previous 18 months, and that respondent was renting an apartment for T.A. where they would have sex. T.A. also told patient T.J. that respondent was still married. Throughout their relationship, respondent maintained to patient T.J. that he was divorced, and that his wife had left him and moved out of his house to the city of Downey. Patient T.J. then called respondent and told him she was terminating their relationship because he was still married and because he was, in addition, having an extramarital sexual relationship with another woman.

(e) Respondent's records documents his treatment of patient T.J. from on or about May 17, 1995, to on or about May 22, 1998, after which time patient T.J. switched to a new primary care physician. However, notwithstanding this switch to a new primary care physician, respondent continued to also treat patient T.J. until at least May of 2008 by issuing multiple prescriptions to patient T.J. Respondent's prescriptions to patient T.J. included, but were not limited to, the following:

1. Ambien 10 mg., a Schedule IV controlled substance, filled on or about February 4, 2002;
2. Biaxin 500 mg., filled on or about June 16, 2002;
3. Diflucan 150 mg., filled on or about June 26, 2002;
4. Cipro 500 mg., filled on or about June 26, 2002;
5. Metronidalzole 500 mg., filled on or about September 12, 2002;
6. Ambien 10 mg., filled on or about October 18, 2002;
7. Hydrocortisone AC 25 mg., filled on or about May 8, 2003;
8. Temazepam 15 mg., a Schedule IV controlled substance, filled on or about May 12, 2004;
9. Ambien 10 mg., filled on or about July 23, 2004;

3 Conduct occurring prior to September 30, 2003, is for informational purposes only, and is not alleged as a basis for disciplinary action.
(10) Loprox 10 shampoo, filled on or about March 13, 2005;
(11) Loprox 10 shampoo, filled on or about July 26, 2005;
(12) Doxycycline 100 mg., filled on or about May 12, 2005;
(13) Protopic 0.10%, filled on or about May 12, 2005;
(14) Diazepam (Valium) 2 mg., filled on or about July 5, 2005;
(15) Protopic 0.10% filled on or about August 1, 2005;
(16) Ambien 10 mg., filled on or about August 6, 2005;
(17) Mometasone Furoate 0.1%, filled on or about September 22, 2005;
(18) Hydroxyzine HCL 10 mg., filled on or about November 7, 2005;
(19) Amoxicillin/Clavulanate Potassium 125 mg., filled on or about August 5, 2006;
(20) Rifampin 300 mg., filled on or about October 30, 2006;
(21) Dicloxacillin 500 mg., filled on or about October 30, 2006;
(22) Amox TrK CLV 125 mg. (Augmentin), filled on or about December 10, 2006;
(23) Clarithromycin 500 mg., filled on or about June 29, 2007;
(24) Tussinonex Pennkinetic, a Schedule III controlled substance, filled on or about June 30, 2007;
(25) Tussinonex Pennkinetic, filled on or about November 27, 2007;
(26) Levaquin 500 mg., filled on or about October 19, 2007;
(27) Levaquin 500 mg., filled on or about November 27, 2007;
(28) Levaquin 500 mg., filled on or about December 5, 2007;
(29) Diphenoxylate/atropine (Lomotil), a Schedule V controlled substance, filled on or about January 3, 2008;
(30) Mometasone Furoate 0.1%, filled on or about May 3, 2008;
SECOND CAUSE FOR DISCIPLINE  
(Prescribing Dangerous Drugs Without an Appropriate Prior Examination)

13. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the Code, in that he prescribed, dispensed, or furnished dangerous drugs between on or about September 30, 2003, and on or about September 30, 2010, without an appropriate prior examination, as more particularly alleged hereinafter:

(a) Paragraph 12(e), above, is hereby incorporated by reference as if fully set forth herein.

(b) Respondent failed to perform an appropriate prior examination before issuing any of 23 prescriptions listed in paragraph 12(e), above.

THIRD CAUSE FOR DISCIPLINE  
(Failure to Maintain Adequate and Accurate Records)

14. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records pertaining to his care and treatment of patient T.J., as more particularly alleged hereinafter:

(a) Paragraph 12(e), above, is hereby incorporated by reference as if fully set forth herein.

(b) Respondent failed to maintain adequate and accurate records pertaining to his care and treatment of patient T.J., including the prescriptions listed in paragraph 12(e), above.

FOURTH CAUSE FOR DISCIPLINE  
(Violation of Laws Regulating Dangerous Drugs and Controlled Substances)

15. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the Code, in that he has violated a statute or regulation regulating dangerous drugs or controlled substances, to wit, section 2242 of the Code, as more particularly alleged hereinafter:
(a) Paragraph 12(e), and paragraph 13, above, are hereby incorporated by reference as if fully set forth herein.

**FIFTH CAUSE FOR DISCIPLINE**

*(Making or Signing a False Document Substantially Related to the Practice of Medicine)*

16. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2261, of the Code, in that he made or signed a document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a state of facts, as more particularly described hereinafter:

(a) Paragraph 12(e), above, is hereby incorporated by reference as if fully set forth herein.

(b) On or about November 24, 2008, patient T.J. sent a written complaint to St. Jude Heritage Medical Group alleging misconduct including, but not limited to, sexual misconduct, by respondent.

(c) On or about December 19, 2008, respondent wrote and signed a letter addressed to the Peer Review Committee of St. Jude Heritage Medical Group. In this letter, respondent stated that he had “a clear recollection of [patient T.J.’s] medical condition and treatment.” He further falsely stated that “[t]he totality of my professional contact with her consisted of nine office visits between February 1995 and May 22, 1998” when, in truth and fact, respondent issued at least 30 prescriptions, including prescriptions for dangerous drugs and controlled substances, to patient T.J. between February, 2002, and May 3, 2008.

(d) Respondent further stated in his December 19, 2008, letter to the Peer Review Committee of the St. Jude Heritage Medical Group that, “At no time during the course of my professional relationship with [patient T.J.], as described above, did I have any non-professional physical contact, with her. At no time during the course of my professional relationship with her did I discuss with her anything of a personal nature
In truth and fact, respondent engaged in non-professional physical contact with patient T.J. and discussed matters of a personal nature on their date on or about May 27, 1998, at which time respondent was her primary care physician. Respondent continued to treat patient T.J. by issuing prescriptions to her until at least May 3, 2008, and respondent continued sexual relations with patient T.J. until on or about July 4, 2008.

**SIXTH CAUSE FOR DISCIPLINE**

*(Dishonesty or Corruption)*

17. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), in that he committed acts of dishonesty or corruption that were substantially related to the qualifications, functions, or duties of a physician or surgeon, as more particularly alleged hereinafter:

(a) Paragraphs 12 and 16, above, are hereby incorporated by reference as if fully set forth herein.

**SEVENTH CAUSE FOR DISCIPLINE**

*(Gross Negligence)*

18. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he has engaged in gross negligence in his care and treatment of patient T.J., as more particularly alleged hereinafter:

(a) Paragraphs 12, 13, 14, and 15, above, are hereby incorporated by reference as if fully set forth herein.

(b) Respondent committed gross negligence in his care and treatment of patient T.J., which included, but was not limited to, the following:

(1) Respondent prescribed numerous medications to patient T.J. between May, 2004, and May, 2008, including prescriptions for dangerous drugs and controlled substances, without (A) performing an appropriate prior physical examination, (B) reviewing the patient's other medications, (C) reviewing or ordering any laboratory tests, (D) discussing with the patient possible dangers or side effects of the prescribed medications, (E) informing the patient’s primary care physician about the prescribed
medications. (F) making any formal diagnosis, or (G) keeping any medical records in regard to his prescriptions to patient T.J.

EIGHTH CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

19. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he has engaged in repeated negligent acts in his care and treatment of patient T.J., as more particularly alleged hereinafter:

(a) Paragraphs 12, 13, 14, 15, and 18, above, are hereby incorporated by reference as if fully set forth herein.

NINTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

20. Respondent is further subject to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breached the rules or ethical code of the medical profession, or conduct which was unbecoming a member in good standing of the medical profession, and which demonstrated an unfitness to practice medicine, as more particularly alleged hereinafter:

(a) Paragraphs 12, 13, 14, 15, 16, 17, 18, and 19, above, are hereby incorporated by reference as if fully set forth herein.
PRAYER

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

1. Revoking or suspending Physician’s and Surgeon’s Certificate Number G 39875, issued to respondent Jeffrey R. Dell, M.D.;

2. Revoking, suspending or denying approval of respondent Jeffrey R. Dell, M.D.’s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering respondent Jeffrey R. Dell, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: June 3, 2017

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