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

In the Matter of the First Amended Accusation Against:	)	
LEE RACHELLE WOLFER, M.D.	)	Case No. 800-2017-030605
Physician's and Surgeon's Certificate No. A 87299	)	
Respondent	)	

DECISION AND ORDER

The attached Stipulated Surrender of License 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 March 14, 2019.

IT IS SO ORDERED March 7, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirchmeyer
Executive Director

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **LEE RACHELLE WOLFER, M.D.** 721 Coventry Road Kensington, CA 94707-1403 Physician's and Surgeon's Certificate No. A 87299 Respondent.	Case No. 800-2017-030605 **STIPULATED SURRENDER OF LICENSE**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Carolyne Evans, Deputy Attorney General.

2. Respondent Lee Rachelle Wolfer, M.D. (Respondent) is represented in this proceeding by Marvin H. Firestone of Marvin Firestone, M.D. J.D. & Associates, LLP, 1700 South El Camino Real, Suite 204, San Mateo, CA 94402.

3. On May 21, 2004, the Board issued Physician's and Surgeon's Certificate No. A 87299 to Respondent. The certificate is renewed and current, and will expire on September 30, 2019, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2017-030605 was filed before the Board, and is currently pending against Respondent. The original Accusation and the First Amended Accusation, as well as all other statutorily required documents were properly served on Respondent, and Respondent timely filed her Notice of Defense. A copy of First Amended Accusation No. 800-2017-030605 is attached as Exhibit A.

5. Respondent has received, read, discussed with counsel, and understands the First Amended Accusation and this Stipulated Surrender of License (Stipulation).

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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 and other applicable laws. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

7. For the purpose of resolving the charges and allegations in the First Amended Accusation, without the expense and uncertainty of further proceedings, Respondent agrees that cause exists to take action against her physician's and surgeon's certificate. Respondent wishes to surrender her physician's and surgeon's certificate at this time.

8. Pursuant to section 2224(b) of the Business and Professions Code, this Stipulation for Surrender of License shall be subject to the approval of the Board. Respondent understands and agrees that the Medical Board's staff and counsel for Complainant may communicate directly with the Board regarding this Stipulation without notice to or participation by Respondent or her attorney. By signing this Stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. In the event that this Stipulation is rejected for any reason by the Board, it will be of no force or effect for either party. The Board will not be disqualified from further action in

this matter by virtue of its consideration of this Stipulation.

9. Upon acceptance of this Stipulation by the Board, Respondent understands that she will no longer be permitted to practice as a physician and surgeon in California, and also agrees to surrender and cause to be delivered to the Board any license and wallet certificate in her possession before the effective date of the decision.

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

11. Respondent fully understands and agrees that if she ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement, and Respondent must comply with all laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.

12. Respondent understands that she may not petition for reinstatement as a physician and surgeon for a period of two (2) years from the effective date of her surrender. Information gathered in connection with First Amended Accusation number 800-2017-030605 may be considered by the Board in determining whether or not the grant the petition for reinstatement. For the purposes of the reinstatement hearing, the allegations contained in First Amended Accusation number 800-2017-030605 shall be deemed to be admitted by Respondent, and Respondent waives any and all defenses based on a claim of laches or the statute of limitations.

13. The parties understand and agree that facsimile or electronic copies of this Stipulated Surrender of License, including facsimile or electronic signatures thereto, shall have the same force and effect as the originals.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License. I enter into it freely and voluntarily and with full knowledge of its force and effect do hereby surrender my Physician and Surgeon's Certificate Number A87299 to the Medical Board of California, for its formal acceptance. By signing this Stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and

surgeon in the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: 2/14/19

LEE RACHELLE WOLFER, M.D.
Respondent

APPROVAL

I have read and fully discussed with Respondent Lee Rachelle Wolfer, M.D. the terms and conditions and other matters contained in the above Stipulated Surrender of Licenser. I approve its form and content.

DATED: 2/14/19

Marvin Firestone, M.D. J.D. & Associates, LLP
Attorneys for Respondent
Michael A. Firestone

ENDORSEMENT

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

DATED: 2/14/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

CAROLYNE EVANS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2017-030605

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 13 2019
BY K. Uoong ANALYST

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

In the Matter of the First Amended Accusation Against: **Lee Rachelle Wolfer, M.D.** 721 Coventry Road Kensington, CA 94707-1403 Physician's and Surgeon's Certificate No. A 87299, Respondent.	Case No. 800-2017-030605 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (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 (Board).

2. On or about May 21, 2004, the Medical Board issued Physician's and Surgeon's Certificate Number A 87299 to Lee Rachelle Wolfer, 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 September 30, 2019, unless renewed. On May 3, 2018, Respondent's

license was suspended by way of Interim Order of Suspension, which became effective on May 4, 2018.

JURISDICTION

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

5. Section 2234 of the Code states:

"The board 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:

". . . ."

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

". . . ."

6. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely . . . or any combination thereof, constitutes unprofessional conduct.

". . . ."

7. Section 820 of the Code states:

"Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or

physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822."

8. Section 822 of the Code states:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

FACTS

9. Respondent (Respondent or Dr. Wolfer) is a physician who specializes in physiatry.[1] It was reported to the Medical Board that in February 2017, Respondent was arrested after she threw a chair while she was being treated at a hospital, acted in an agitated manner, refused to leave the hospital when instructed to do so by hospital staff, and provided a false identification to responding officers.

10. Respondent agreed to undergo a voluntary psychiatric evaluation. The examining psychiatrist concluded that Respondent was not safe to practice medicine as a result of mental illness. In reaching her opinion, the examining psychiatrist noted several factors: (1) Respondent

[1] Physiatrists are medical doctors who have completed training in the specialty of Physical Medicine and Rehabilitation.

had multiple diagnoses including major depressive disorder and somatic symptom disorder; (2) Respondent was prescribed large amounts of opiate and benzodiazepine medications; (3) Respondent was evasive during the psychiatric evaluation, provided inconsistent and contradictory statements and left out parts of her mental health history; (4) Respondent demonstrated a boundary issue with a patient; (5) Respondent behaved in a disruptive manner during a hospital visit as evidenced by her throwing a chair and then providing false information to the police, resulting in her arrest; (6) Respondent failed to comply with routine mental health treatment, failed to fully comply with her doctor's recommendations, and failed to consistently take her mental health medications; (7) Respondent self-prescribed medications that are habit-forming and can cause psychoactive effects such as mania and psychosis; (8) Respondent chronically used benzodiazepines and opiates despite declining functioning; and (9) Respondent constantly sought specialized medical testing and fixated on something being wrong with her body, despite being reassured otherwise by numerous doctors. The evaluator also took into consideration the fact that between June and October 2017, Respondent participated in a psychiatric partial hospitalization program, and in December 2017 attempted suicide by taking an overdose of opiates, acetaminophen, and risperidone, resulting in an involuntary psychiatric hospitalization.

FIRST CAUSE FOR BOARD ACTION

(Mental Impairment)

11. The factual allegations set forth above are incorporated by reference as if set out in full. Respondent is subject to Board action under Sections 822 and 2227 of the Code in that, due to a mental and/or physical illness, Respondent is unable, and/or impaired in her ability, to practice medicine with safety to the public.

SECOND CAUSE FOR DISCIPLINE

(Self Prescribing)

12. The factual allegations set forth above are incorporated by reference as if set out in full. Respondent is subject to disciplinary action for unprofessional conduct under Section 2234 and 2239 of the Code in that Respondent's actions, constitute prescribing for and administering to

herself of dangerous drugs in such a manner as to be injurious to Respondent, or to the public, or to the extent that such use compromises the ability of Respondent to practice medicine safely.

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 A 87299, issued to Lee Rachelle Wolfer, M.D.;

2. Revoking, suspending or denying approval of Lee Rachelle Wolfer, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Lee Rachelle Wolfer, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: February 13, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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