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

In the Matter of the Accusation Against:	)	
Thomas Bates Huffaker Jr., M.D.	)	**Case No. 800-2017-038470**
Physician's and Surgeon's Certificate No. G 41747	)	
Respondent	)	

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 May 10, 2019 **.**

IT IS SO ORDERED May 3, 2019 **.**

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director

XAVIER BECERRA
Attorney General of California
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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 Accusation Against: **THOMAS BATES HUFFAKER JR., M.D.** **1375 Sutter St. Ste. 304** **San Francisco CA 94109** **Physician's and Surgeon's Certificate No. G 41747** Respondent.	Case No. 800-2017-038470 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

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 Rebecca D. Wagner, Deputy Attorney General.

2. Thomas Bates Huffaker Jr., M.D. (Respondent) is representing himself in this proceeding with the advice and under the direction of his duly authorized Legal Representative,

his niece, Katherine E. DiGuilio, who has power of attorney over Respondent's affairs (Legal Representative).

3. Respondent and/or his Legal Representative have received, read, and understand the Accusation which is presently on file and pending in Accusation No. 800-2017-038470. A copy of Accusation No. 800-2017-038470 is attached as Exhibit A and incorporated by reference.

4. Respondent and/or his Legal Representative have received, read, and understand the charges and allegations in the Accusation. Respondent and/or his Legal Representative also have carefully read and understand the effects of this Stipulated Surrender of License and Order.

5. Respondent and/or his Legal Representative are fully aware of Respondent's legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; 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 and other applicable laws.

6. Respondent and/or his Legal Representative voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

7. Respondent and/or his Legal Representative agree that the Board has jurisdiction and cause to take action against Respondent's physician's and surgeon's certificate by virtue of the allegations set forth in the Accusation and pursuant to Business and Professions Code §822. Respondent is unable to practice medicine and wishes to surrender his California license.

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 and/or his Legal Representative understand and agree that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this Stipulation for Surrender of License, without notice to or participation by Respondent and/or his Legal Representative. By signing the Stipulation for Surrender of License, Respondent and/or his Legal Representative understand and

agree that Respondent may not withdraw his agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

9. Upon acceptance of this Stipulation for Surrender of License by the Board, Respondent and/or his Legal Representative understand that Respondent will no longer be permitted to practice as a physician and surgeon in California, and also agree to surrender and cause to be delivered to the Board any license and wallet certificate in Respondent's possession before the effective date of the decision.

10. The admissions made by Respondent and/or his Legal Representative 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. If Respondent ever files a petition for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-038470 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

12. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2017-038470 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

13. Respondent and/or his Legal Representative understand that because this surrender of license is based on Section 822 of the Code, Respondent may not petition for reinstatement as a physician and surgeon for a period of one (1) year from the effective date of his surrender.

Information gathered in connection with Accusation No. 800-2017-038470 may be considered by the Board in determining whether or not to grant the petition for reinstatement. For the purposes of the reinstatement hearing, the allegations contained in Accusation No. 800-2017-038470 shall be deemed admitted by Respondent, and Respondent waives any and all defenses based on a claim of laches or the statute of limitations.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 41747, issued to Respondent Thomas Bates Huffaker Jr., M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent and/or his Legal Representative shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I enter into it freely and voluntarily and with full knowledge of its force and effect, and do hereby surrender my Physician's and Surgeon's Certificate Number G 41747, 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: 4.23.2019

THOMAS BATES HUFFAKER, Jr.
Respondent

DATED: 4.23.2019

KATHERINE E. DIGUILIO
Legal Representative for Respondent

ENDORSEMENT

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

Dated: 4-30-2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

REBECCA D. WAGNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-038470

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 28 20 19
BY K. Vuong ANALYST

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

In the Matter of the Accusation Against: **Thomas Bates Huffaker Jr., M.D.** **1375 Sutter St., Ste. 304** **San Francisco, CA 94109** **Physician's and Surgeon's Certificate No. G 41747,** Respondent.	Case No. 800-2017-038470 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this 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 April 7, 1980, the Medical Board issued Physician's and Surgeon's Certificate Number G 41747 to Thomas Bates Huffaker Jr., M.D. (Respondent). The Physician's and Surgeon's Certificate is delinquent, having expired on July 31, 2017.

JURISDICTION

3. This 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 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 board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

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

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

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board 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 board 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 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:

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

". . ."

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

". . ."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

7. Respondent Thomas Bates Huffaker Jr., M.D. is subject to disciplinary action for unprofessional conduct under sections 2234 and/or 2236 in that on July 31, 2017 in Marin County Superior Court, Respondent was convicted of a violation of section 23153(b) of the California Vehicle Code (Driving Under the Influence Causing Bodily Injury), a misdemeanor. The circumstances are as follows:

8. On or about January 16, 2017 at approximately 6:04 p.m., San Rafael Police Officer T. C. responded to a two vehicle injury collision. A witness at the scene said that the Respondent was driving his vehicle 40 to 50 miles per hour around a turn and crossed over the double yellow lines and collided head on with another vehicle causing significant front end damage on both vehicles. The witness further told the officer that the Respondent may be under the influence of alcohol. The driver of the other vehicle suffered neck and back pain and requested transport to the hospital.

9. Officer T. C. made contact with Respondent who was still in the driver's seat and noticed that Respondent was slurring his words and was very disoriented. Respondent denied that he had been drinking. Officer T.C. asked Respondent to get out of the car and as he was asking Respondent questions about the accident, Officer T.C. began to smell the strong odor of an alcoholic beverage. Respondent admitted to consuming a Coors Light 12-ounce beer but claimed he could not feel the effects of the alcohol. Respondent had difficulty answering very simple questions.

10. Respondent was given a series of Field Sobriety Tests and he performed poorly on the tests. Respondent provided a breath sample in a Preliminary Alcohol Screening Device test with readings of .124% and .126%. Respondent was subsequently placed under arrest for a violation of section 23153(a) and 23153(b) of the Vehicle Code and elected to have a blood test taken which had results of .131%.

11. Respondent pled guilty on July 31, 2017 to a misdemeanor violation of section 23153(b) of the Vehicle Code in Marin County Superior Court Case Number CR200056A.

Respondent was sentenced to three years supervised probation, 30 hours of volunteer work, completion of a first offender drinking driver program, two Alcoholic Anonymous meetings per week for three months, one-year driver's license suspension, and was ordered to pay restitution and standard fines and fees.

12. Respondent's conduct and criminal conviction, as outlined in Paragraphs 7 through 11, constitute unprofessional conduct and the conviction of a crime substantially related to the qualifications, functions or duties of a physician and surgeon, and cause for discipline pursuant to Business and Professions Code section 2234 and/or 2236.

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 41747, issued to Thomas Bates Huffaker Jr., M.D.;

2. Revoking, suspending or denying approval of Thomas Bates Huffaker Jr., M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Thomas Bates Huffaker Jr., 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 28, 2019

Christine J. Tally for
KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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