

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

**In the Matter of the Petition to Revoke
Probation Against:**

Marlon Fidel Castillo, M.D.

**Physician's and Surgeon's
Certificate No. A 93971**

Respondent.

Case No. 800-2019-055424

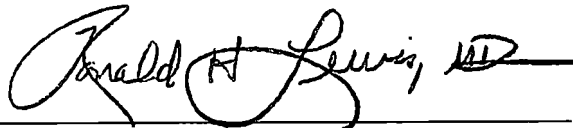
DECISION

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

This Decision shall become effective at 5:00 p.m. on July 22, 2020.

IT IS SO ORDERED: June 22, 2020.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
Deputy Attorney General
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8 *Attorneys for Complainant*

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

13 In the Matter of the Petition to Revoke
14 Probation Against:

15 **MARLON FIDEL CASTILLO, M.D.**
16 **1043 Wycliffe**
Irvine, CA 92602

17 **Physician's and Surgeon's Certificate No.**
18 **A 93971**

19 Respondent.

Case No. 800-2019-055424

OAH No. 2019070175

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

23 1. Christine J. Lally¹ (Complainant) is the Interim Executive Director of the Medical
24 Board of California (Board). Kimberly Kirchmeyer, brought this action solely in her official
25 capacity as the then Executive Director of the Board. They have been represented in this matter

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27 ¹ Kimberly Kirchmeyer became the Director of the Department of Consumer Affairs on
28 October 28, 2019. On that date, Ms. Lally became the Interim Executive Director of the Medical Board.

1 by Xavier Becerra, Attorney General of the State of California, by Karolyn M. Westfall, Deputy
2 Attorney General.

3 2. Respondent Marlon Fidel Castillo, M.D. (Respondent) is represented in this
4 proceeding by attorney Fred Ray, Esq., whose address is: Ray & Bishop, PLC, 5000 Birch Street,
5 Suite 7000, Newport Beach, CA, 92660.

6 3. On or about February 8, 2006, the Board issued Physician's and Surgeon's Certificate
7 No. A 93971 to Respondent. The Physician's and Surgeon's Certificate was in full force and
8 effect at all times relevant to the charges brought in Petition to Revoke Probation No. 800-2019-
9 055424, and will expire on August 31, 2021, unless renewed.

10 **JURISDICTION**

11 4. Petition to Revoke Probation No. 800-2019-055424 was filed before the Board, and is
12 currently pending against Respondent. The Petition to Revoke Probation and all other statutorily
13 required documents were properly served on Respondent on May 29, 2019. Respondent timely
14 filed his Notice of Defense contesting the Petition to Revoke Probation.

15 5. A copy of Petition to Revoke Probation No. 800-2019-055424 is attached hereto as
16 Exhibit A and incorporated herein by reference.

17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Petition to Revoke Probation No. 800-2019-055424. Respondent has
20 also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated
21 Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Petition to Revoke Probation No. 800-2019-055424.

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he 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 Settlement 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.

12. 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 Board, all of the charges and allegations contained in Petition to Revoke Probation No. 800-2019-055424 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.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 93971 issued to Respondent Marlon Fidel Castillo, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years from the effective date of this Decision and Order, on the following terms and conditions, which shall supersede all terms and conditions previously ordered in the Decision and Order in Case No. 800-2014-009413.

1. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the effective date of the Decision and Order in Case No. 800-2014-009413, but prior to the effective date of the Decision may be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its

1 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
2 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
3 consider any information provided by the Board or designee and any other information the
4 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
5 designee. Psychiatric evaluations conducted after the effective date of the Decision and Order in
6 Case No. 800-2014-009413, but prior to the effective date of this Decision may be accepted
7 towards the fulfillment of this condition if the program would have been approved by the Board
8 or its designee had the program been taken after the effective date of this Decision. Respondent
9 shall pay the cost of all psychiatric evaluations and psychological testing.

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

12 3. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
13 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
14 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
15 who shall consider any information provided by the Board or designee and any other information
16 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
17 designee. Respondent shall provide the evaluating physician with any information and
18 documentation that the evaluating physician may deem pertinent.

19 Medical evaluations conducted after the effective date of the Decision and Order in Case
20 No. 800-2014-009413, but prior to the effective date of this Decision may be accepted towards
21 the fulfillment of this condition if the program would have been approved by the Board or its
22 designee had the program been taken after the effective date of this Decision. Respondent shall
23 pay the cost of all medical evaluations.

24 Following the evaluation, Respondent shall comply with all restrictions or conditions
25 recommended by the evaluating physician within 15 calendar days after being notified by the
26 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
27 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
28 Board or its designee for prior approval the name and qualifications of a California licensed

1 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
2 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
3 further notice from the Board or its designee.

4 The treating physician shall consider any information provided by the Board or its designee
5 or any other information the treating physician may deem pertinent prior to commencement of
6 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
7 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
8 Respondent shall provide the Board or its designee with any and all medical records pertaining to
9 treatment that the Board or its designee deems necessary.

10 If, prior to the completion of probation, Respondent is found to be physically incapable of
11 resuming the practice of medicine without restrictions, the Board shall retain continuing
12 jurisdiction over Respondent's license and the period of probation shall be extended until the
13 Board determines that Respondent is physically capable of resuming the practice of medicine
14 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

24 The Board or its designee shall provide the approved monitor with copies of the Decision
25 and Petition to Revoke Probation, and a proposed monitoring plan. Within 15 calendar days of
26 receipt of the Decision and Petition to Revoke Probation, and proposed monitoring plan, the
27 monitor shall submit a signed statement that the monitor has read the Decision and Petition to
28 Revoke Probation, fully understands the role of a monitor, and agrees or disagrees with the

1 proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the
2 monitor shall submit a revised monitoring plan with the signed statement for approval by the
3 Board or its designee.

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

8 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
9 date of this Decision, Respondent shall receive a notification from the Board or its designee to
10 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
11 shall cease the practice of medicine until a monitor is approved to provide monitoring
12 responsibility.

13 The monitor(s) shall submit a quarterly written report to the Board or its designee which
14 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
15 are within the standards of practice of medicine, and whether Respondent is practicing medicine
16 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
17 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
18 preceding quarter.

19 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
20 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
21 name and qualifications of a replacement monitor who will be assuming that responsibility within
22 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
23 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
24 notification from the Board or its designee to cease the practice of medicine within three (3)
25 calendar days after being so notified. Respondent shall cease the practice of medicine until a
26 replacement monitor is approved and assumes monitoring responsibility.

27 In lieu of a monitor, Respondent may participate in a professional enhancement program
28 approved in advance by the Board or its designee that includes, at minimum, quarterly chart

1 review, semi-annual practice assessment, and semi-annual review of professional growth and
2 education. Respondent shall participate in the professional enhancement program at Respondent's
3 expense during the term of probation.

4 5. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in
5 the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
6 where: 1) Respondent merely shares office space with another physician but is not affiliated for
7 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
8 location.

9 If Respondent fails to establish a practice with another physician or secure employment in
10 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
11 Respondent shall receive a notification from the Board or its designee to cease the practice of
12 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
13 practice until an appropriate practice setting is established.

14 If, during the course of the probation, the Respondent's practice setting changes and the
15 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
16 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
17 If Respondent fails to establish a practice with another physician or secure employment in an
18 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
19 shall receive a notification from the Board or its designee to cease the practice of medicine within
20 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
21 appropriate practice setting is established.

22 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
23 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
24 Chief Executive Officer at every hospital where privileges or membership are extended to
25 Respondent, at any other facility where Respondent engages in the practice of medicine,
26 including all physician and locum tenens registries or other similar agencies, and to the Chief
27 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
28 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15

1 calendar days.

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

3 7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent
4 is prohibited from supervising physician assistants.

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

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

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

13 10. GENERAL PROBATION REQUIREMENTS.

14 Compliance with Probation Unit

15 Respondent shall comply with the Board's probation unit.

16 Address Changes

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

22 Place of Practice

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

26 License Renewal

27 Respondent shall maintain a current and renewed California physician's and surgeon's
28 license.

1 Travel or Residence Outside California

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

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

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

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

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

26 Periods of non-practice for a Respondent residing outside of California will relieve
27 Respondent of the responsibility to comply with the probationary terms and conditions with the
28 exception of this condition and the following terms and conditions of probation: Obey All Laws;

1 General Probation Requirements; and Quarterly Declarations.

2 Respondent's period of non-practice while on probation shall not exceed six (6) months. If
3 Respondent's period of non-practice exceeds six (6) months, he shall be notified by the Board or
4 its designee in writing to his address of record with the Board. In consideration of his admissions
5 made in Petition to Revoke Probation No. 800-2019-055424, above, Respondent hereby agrees
6 that if his period of non-practice exceeds six (6) months, Respondent agrees that he has violated
7 this term of his probation, that he will not contest this violation, and agrees that he shall
8 voluntarily surrender his license within 15 calendar days of written notification from the Board or
9 its designee.

10 Respondent is fully aware of his legal rights regarding a violation of this term of probation,
11 including the right to the filing of charges and allegations in a Petition to Revoke Probation; the
12 right to confront and cross-examine the witnesses against him; the right to present evidence and to
13 testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of
14 witnesses and the production of documents; the right to reconsideration and court review of an
15 adverse decision; and all other rights accorded by the California Administrative Procedure Act
16 and other applicable laws. Having the benefit of counsel, Respondent hereby voluntarily,
17 knowingly, and intelligently waives and gives up each and every right set forth above as to this
18 term of probation only.

19 Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver
20 Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no
21 longer practice medicine. Respondent will no longer be subject to the terms and conditions of
22 probation. If Respondent re-applies for a medical license, the application shall be treated as a
23 petition for reinstatement of a revoked certificate.

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

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1 14. VIOLATION OF PROBATION. Failure to fully comply with any term or
2 condition of probation is a violation of probation. Notwithstanding Condition No. 12 regarding
3 Non-Practice While on Probation, above, if Respondent violates any other term of probation in
4 any respect, the Board, after giving Respondent notice and the opportunity to be heard, may
5 revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition
6 to Revoke Probation, or an Interim Suspension Order is filed against Respondent during
7 probation, the Board shall have continuing jurisdiction until the matter is final, and the period of
8 probation shall be extended until the matter is final.

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

19 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
20 with probation monitoring each and every year of probation, as designated by the Board, which
21 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
22 California and delivered to the Board or its designee no later than January 31 of each calendar
23 year.

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28 ///

1 ACCEPTANCE

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

7
8 DATED: 05/16/2020 Marlon Fidel Castillo
9 MARLON FIDEL CASTILLO, M.D.
Respondent

10 I have read and fully discussed with Respondent Marlon Fidel Castillo, M.D., the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 5/16/20 Fred M. Ray
14 FRED RAY, ESQ.
Attorney for Respondent

15
16 ENDORSEMENT

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

19
20 DATED: 5/18/20

Respectfully submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

24 Karolyn M. Westfall

25 KAROLYN M. WESTFALL
26 Deputy Attorney General
Attorneys for Complainant

27 SD2019800532
28 82305491.docx

Exhibit A

Petition to Revoke Probation No. 800-2019-055424

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
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3 KAROLYN M. WESTFALL
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 29 20 19
BY ANALYST

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

13 In the Matter of the Petition to Revoke
14 Probation Against:

15 **MARLON FIDEL CASTILLO, M.D.**
16 **500 N. Anaheim Blvd.**
Anaheim, CA 92805

17 **Physician's and Surgeon's Certificate No.**
18 **A93971**

19 Respondent.

Case No. 800-2019-055424

PETITION TO REVOKE PROBATION

20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely
23 in her official capacity as the Executive Director of the Medical Board of California, Department
24 of Consumer Affairs.

25 2. On or about February 8, 2006, the Medical Board of California (Board) issued
26 Physician's and Surgeon's Certificate No. A93971 to Marlon Fidel Castillo, M.D. (Respondent).
27 The Physician's and Surgeon's Certificate was in effect at all times relevant to the charges
28 brought herein and will expire on August 31, 2019, unless renewed.

3. In a disciplinary action entitled “In the Matter of Accusation Against Marlon Fidel Castillo, M.D.,” Case No. 800-2014-009413, the Medical Board of California, issued a Decision, effective March 25, 2016, in which Respondent’s Physician’s and Surgeon’s Certificate was revoked. However, the revocation was stayed and Respondent’s Physician’s and Surgeon’s Certificate was placed on probation for a period of seven (7) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Petition to Revoke Probation is brought before the Board, under the authority of the following laws, and under the Board's Decision and Order in Case No. 800-2014-009413. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2227 of the Code states, in pertinent part:

“(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.

“ ”
...

6. At all times after the effective date of the Decision and Order in Case No. 800-2014-009413, Probation Condition No. 14 states:

1 “Failure to fully comply with any term or condition of probation is a violation of
2 probation. If Respondent violates probation in any respect, the Board, after giving
3 Respondent notice and the opportunity to be heard, may revoke probation and carry out
4 the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
5 Probation, or an Interim Suspension Order is filed against Respondent during
6 probation, the Board shall have continuing jurisdiction until the matter is final, and the
7 period of probation shall be extended until the matter is final.”

8 **CAUSE TO REVOKE PROBATION**

9 **(Non-Practice While on Probation)**

10 7. At all times after the effective date of the Decision and Order in Case No. 800-2014-
11 009413, Probation Condition No. 12 states,

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

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

1 resuming the practice of medicine.

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

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

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

9 8. Respondent's probation is subject to revocation because he failed to comply with
10 Probation Condition No. 12 referenced above. The facts and circumstances regarding this
11 violation are as follows:

12 9. On or about April 14, 2016, Respondent's assigned probation inspector mailed him a
13 letter to his address of record in Connecticut. This letter reminded Respondent that if a period of
14 non-practice while on probation exceeds 18 months, he will be required to successfully complete
15 a clinical training program prior to resuming practice in California. In addition, that any period of
16 non-practice shall not exceed two (2) years.

17 10. On or about April 29, 2016, Respondent acknowledged receipt of the letter from his
18 probation inspector, and advised her of his updated address of record in Connecticut.

19 11. On or about May 26, 2016, Respondent submitted an Information Summary form to
20 his probation inspector, which indicated that he was not practicing medicine at that time.

21 12. On or about August 9, 2016, Respondent submitted a Semi-Annual Declaration of an
22 out-of-state probationer to his probation inspector, which indicated that he closed his practice in
23 Connecticut and surrendered his medical license there on March 15, 2016.

24 13. On or about April 13, 2017, Respondent's assigned probation inspector mailed him a
25 letter to his address of record in Connecticut, informing him that his 18 months of non-practice
26 will end on September 25, 2017, and his 2-year period of non-practice would end on March 25,
27 2018.

28 ///

1 14. On or about June 30, 2017, Respondent submitted a Quarterly Declaration of an out-
2 of-state probationer to his probation inspector, which indicated that he had worked zero hours that
3 quarter, and was not practicing medicine at that time.

4 15. On or about October 1, 2017, Respondent submitted a Quarterly Declaration of an
5 out-of-state probationer to his probation inspector, which indicated that he had worked zero hours
6 that quarter, and was not practicing medicine at that time.

7 16. On or about January 1, 2018, Respondent submitted a Quarterly Declaration of an
8 out-of-state probationer to his probation inspector, which indicated that he had worked "N/A"
9 hours that quarter, and was not practicing medicine at that time.

10 17. On or about March 31, 2018, Respondent submitted a Quarterly Declaration to his
11 probation inspector, which indicated that his address of record was in San Diego, California, and
12 that he had worked zero hours that quarter, and was not practicing medicine at that time.

13 18. Between on or about May 7, 2018, and May 11, 2018, Respondent completed the
14 PACE physician assessment program.

15 19. On or about May 14, 2018, Respondent's assigned probation inspector mailed him a
16 letter to his address of record informing him that he had exceeded his two (2) year period of non-
17 practice as of March 25, 2018.

18 20. On or about June 30, 2018, Respondent submitted a Quarterly Declaration to his
19 probation inspector, which indicated that he had worked zero hours that quarter, and was not
20 practicing medicine at that time.

21 21. On or about September 30, 2018, Respondent submitted a Quarterly Declaration to
22 his probation inspector, which indicated that his home address was back in Connecticut, and that
23 he had worked "N/A" hours that quarter, and was not practicing medicine at that time.

24 22. On or about January 4, 2019, Respondent submitted a Quarterly Declaration to his
25 probation inspector, which indicated that he had worked zero hours that quarter, and was not
26 practicing medicine at that time.

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23. Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 12, referenced above, in that Respondent has exceeded two (2) years of non-practice from the effective date of Decision and Order Case No. 800-2014-009413.

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 the probation that was granted by the Medical Board of California in Case No. 800-2014-009413 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A93971 issued to Marlon Fidel Castillo, M.D.;
2. Revoking or suspending Physician's and Surgeon's Certificate No. A93971, issued to Respondent, Marlon Fidel Castillo, M.D.;
3. Revoking, suspending or denying approval of Respondent, Marlon Fidel Castillo, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
4. Taking such other and further action as deemed necessary and proper.

DATED: May 29, 2019


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

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Exhibit A

Decision and Order

Medical Board of California Case No. 800-2014-009413

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

In the Matter of the Accusation Against:)

MARLON FIDEL CASTILLO, M.D.)

Case No. 8002014009413

Physician's & Surgeon's
Certificate No. A93971)

Respondent.)

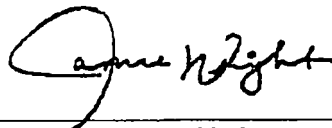
**ORDER CORRECTING NUNC PRO TUNC
RESPONDENT'S NAME IN THE CAPTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error reflecting Respondent's name in the caption of the Decision in the above-entitled matter, and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the caption contained in the Decision in the above-entitled matter be and is hereby amended and corrected nunc pro tunc to reflect the Respondent's correct name as follows:

"Marlon Fidel Castillo, M.D."

IT IS SO ORDERED March 4, 2016.



Jamie Wright, J.D., Chair
Panel A
Medical Board of California

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true
and correct copy of the original on file in this
office.

S. Woods
Signature
for Custodian of Records
Title
5/3/2019
Date

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

**In the Matter of the Accusation
Against:**

MARTIN FIDEL CASTILLO, M.D.

Case No. 8002014009413

**Physician's and Surgeon's
Certificate No. A93971**

Respondent

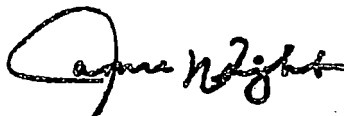
DECISION

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

This Decision shall become effective at 5:00 p.m. on March 25, 2016.

IT IS SO ORDERED: February 24, 2016.

MEDICAL BOARD OF CALIFORNIA



**Jamie Wright, J.D., Chair
Panel A**

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
4 State Bar No. 267098
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5529
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 800-2014-009413

11 **MARLON F. CASTILLO, M.D.**

OAH No. 2015070222

12 **31 Strawberry Hill Avenue**
13 **Stamford, CT 06902**
14 **Physician's and Surgeon's Certificate No. A**
93971

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

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

20 PARTIES

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

25 2. Respondent Marlon F. Castillo, M.D. ("Respondent") is represented in this
26 proceeding by attorney Fredrick M. Ray, 5000 Birch Street, Suite 7000, Newport Beach, CA
27 92660-2127.
28

3. On or about February 8, 2006, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 93971 to Respondent. The certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-009413 and will expire on August 31, 2017, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-009413 was filed before the Medical Board of California (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 8, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-009413 is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-009413. Respondent has also 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 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.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
2 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
3 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
4 psychiatric evaluations and psychological testing.

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

7 3. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
8 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
9 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
10 who shall consider any information provided by the Board or designee and any other information
11 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
12 designee. Respondent shall provide the evaluating physician any information and documentation
13 that the evaluating physician may deem pertinent.

14 Following the evaluation, Respondent shall comply with all restrictions or conditions
15 recommended by the evaluating physician within 15 calendar days after being notified by the
16 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
17 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
18 Board or its designee for prior approval the name and qualifications of a California licensed
19 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
20 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
21 further notice from the Board or its designee.

22 The treating physician shall consider any information provided by the Board or its designee
23 or any other information the treating physician may deem pertinent prior to commencement of
24 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
25 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
26 Respondent shall provide the Board or its designee with any and all medical records pertaining to
27 treatment, the Board or its designee deems necessary.

28 If, prior to the completion of probation, Respondent is found to be physically incapable of

1 resuming the practice of medicine without restrictions, the Board shall retain continuing
2 jurisdiction over Respondent's license and the period of probation shall be extended until the
3 Board determines that Respondent is physically capable of resuming the practice of medicine
4 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

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

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

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

25 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
26 date of this Decision, Respondent shall receive a notification from the Board or its designee to
27 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
28 shall cease the practice of medicine until a monitor is approved to provide monitoring

1 responsibility.

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

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

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

22 5. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
23 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
24 where: 1) Respondent merely shares office space with another physician but is not affiliated for
25 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
26 location.

27 If Respondent fails to establish a practice with another physician or secure employment in
28 an appropriate practice setting within 60 calendar days of the effective date of this Decision,

1 Respondent shall receive a notification from the Board or its designee to cease the practice of
2 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
3 practice until an appropriate practice setting is established.

4 If, during the course of the probation, the Respondent's practice setting changes and the
5 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
6 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
7 Respondent fails to establish a practice with another physician or secure employment in an
8 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
9 shall receive a notification from the Board or its designee to cease the practice of medicine within
10 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
11 appropriate practice setting is established.

12 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
13 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
14 Chief Executive Officer at every hospital where privileges or membership are extended to
15 Respondent, at any other facility where Respondent engages in the practice of medicine,
16 including all physician and locum tenens registries or other similar agencies, and to the Chief
17 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
18 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
19 calendar days.

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

21 7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
22 prohibited from supervising physician assistants.

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

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

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

3 10. GENERAL PROBATION REQUIREMENTS.

4 Compliance with Probation Unit

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

7 Address Changes

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

13 Place of Practice

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

17 License Renewal

18 Respondent shall maintain a current and renewed California physician's and surgeon's
19 license.

20 Travel or Residence Outside California

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

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

27 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
28 available in person upon request for interviews either at Respondent's place of business or at the

1 probation unit office, with or without prior notice throughout the term of probation.

2 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
3 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
4 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
5 defined as any period of time Respondent is not practicing medicine in California as defined in
6 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
7 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
8 time spent in an intensive training program which has been approved by the Board or its designee
9 shall not be considered non-practice. Practicing medicine in another state of the United States or
10 Federal jurisdiction while on probation with the medical licensing authority of that state or
11 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
12 not be considered as a period of non-practice.

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

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

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

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

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

26 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
2 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
3 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
4 the matter is final.

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

15 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
16 with probation monitoring each and every year of probation, as designated by the Board, which
17 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
18 California and delivered to the Board or its designee no later than January 31 of each calendar
19 year.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Fredrick M. Ray, A Professional Corporation. I understand the
23 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
24 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
25 to be bound by the Decision and Order of the Medical Board of California.

26
27 DATED: Dec 02-2015

Marlon Castillo
MARLON F. CASTILLO, M.D.
Respondent

1 I have read and fully discussed with Respondent Marlon F. Castillo, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: Dec. 2, 2015

Fredrick M. Ray
Fredrick M. Ray, A Professional Corporation
Attorney for Respondent

7 ENDORSEMENT

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

10 Dated: 1/11/2016

Respectfully submitted,

12 KAMALA D. HARRIS
Attorney General of California
13 JANE ZACK SIMON
Supervising Deputy Attorney General

14 Joshua M. Temple
15 JOSHUA M. TEMPLET
16 Deputy Attorney General
17 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-009413

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
4 State Bar No. 267098
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5529
6 Facsimile: (415) 703-5480
E-mail: Joshua.Templet@doj.ca.gov
7 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 8 2015
BY [Signature] ANALYST

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

In the Matter of the Accusation Against:

Case No. 800-2014-009413

Marlon F. Castillo, M.D.
31 Strawberry Hill Avenue
Stamford, CT 06902

ACCUSATION

Physician's and Surgeon's Certificate
No. A-93971,

Respondent.

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 February 8, 2006, the Medical Board issued Physician's and Surgeon's Certificate Number A 93971 to Marlon F. Castillo, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2015, unless renewed.

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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 2004 of the Code provides that the Medical Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. 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.

6. 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.

....

(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.

....

7. 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.

....

(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.

8. Section 141 of the Code states:

1 (a) For any licensee holding a license issued by a board under the jurisdiction of the
2 department, a disciplinary action taken by another state, by any agency of the federal
3 government, or by another country for any act substantially related to the practice
4 regulated by the California license, may be a ground for disciplinary action by the
5 respective state licensing board. A certified copy of the record of the disciplinary
6 action taken against the licensee by another state, an agency of the federal
7 government, or another country shall be conclusive evidence of the events related
8 therein.

9 (b) Nothing in this section shall preclude a board from applying a specific statutory
10 provision in the licensing act administered by that board that provides for discipline
11 based upon a disciplinary action taken against the licensee by another state, an agency
12 of the federal government, or another country.

13 9. Section 2305 of the Code states:

14 The revocation, suspension, or other discipline, restriction or limitation imposed by
15 another state upon a license or certificate to practice medicine issued by that state, or
16 the revocation, suspension, or restriction of the authority to practice medicine by any
17 agency of the federal government, that would have been grounds for discipline in
18 California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall
19 constitute grounds for disciplinary action for unprofessional conduct against the
20 licensee in this state.

21 FIRST CAUSE FOR DISCIPLINE

22 (Criminal Conviction)

23 10. On May 8, 2014, in the Supreme Court for the State of New York, Queens County,
24 New York. Respondent pleaded guilty to the crime of aiding or abetting the unauthorized practice
25 of medicine, in violation of New York State Education Law, Section 6512(1), a felony.
26 Respondent was sentenced on June 27, 2014 to five years of probation and was ordered to pay
27 restitution to the patients harmed as a result of his actions.

28 11. As a result of his conviction for an offense substantially related to the qualifications,
functions, or duties of a physician and surgeon, Respondent is subject to discipline under Code
sections 2234(a) (unprofessional conduct) and 2236 (criminal conviction).

SECOND CAUSE FOR DISCIPLINE

(Dishonesty)

12. On or about March 14, 2013, Respondent filed an application with the New York
State Department of Education to renew his registration to practice medicine in New York. The
application included the question "Are criminal charges pending against you in any court?" to

1 which Respondent responded, "No." However criminal charges were pending against Respondent
2 at the time that he completed his application, and had been so pending for nearly a year.

3 13. The criminal complaint in the above referenced criminal prosecution of the
4 Respondent before the Supreme Court for the State of New York. Queens County, New York was
5 filed on April 11, 2012. Respondent was arrested in that matter on April 17, 2012, and arraigned
6 on the filed charges on April 18, 2012. Accordingly, Respondent was aware, or should have been
7 aware, of the existence of pending criminal charges against him when he responded to the
8 question regarding pending criminal charges.

9 14. As a result of his submission of a dishonest response in his medical license renewal
10 application, an act substantially related to the qualifications, functions, or duties of a physician
11 and surgeon, Respondent is subject to discipline under section 2234(e) (unprofessional conduct:
12 commission of any act involving dishonesty or corruption).

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Discipline, Restriction or Limitation Imposed by another State)**

15 15. On October 27, 2014, the New York State Board for Professional Medical Conduct
16 ("New York Board") issued Consent Order No. 14-259 against Respondent, attached as
17 **Exhibit A** and hereby incorporated by reference. The Order incorporated a Statement of Charges
18 alleging that Respondent (1) had committed professional misconduct by having been convicted of
19 a felony, as noted above, and (2) had committed professional misconduct "by practicing the
20 profession of medicine fraudulently," based on his dishonest response in his license renewal
21 application to the New York State Department of Education, as noted above. In the Consent
22 Agreement, made part of the Consent Order. Respondent conceded that "I assert that I cannot
23 successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of
24 the charges against me, and agree to the following penalty" The Consent Order required
25 Respondent to cease his practice of medicine, to close his medical practice, and to change his
26 New York medical license status to "inactive."
27
28

1 16. Respondent's conduct and the action of the New York Board as set forth above
2 constitute unprofessional conduct within the meaning of section 2305 and conduct subject to
3 discipline within the meaning of section 141(a).

4 PRAYER

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


7 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 93971,
8 issued to Marlon F. Castillo, M.D.;

9 2. Revoking, suspending or denying approval of Marlon F. Castillo, M.D.'s authority to
10 supervise physician assistants, pursuant to section 3527 of the Code;

11 3. Ordering Marlon F. Castillo, M.D., if placed on probation, to pay the Board the costs
12 of probation monitoring; and

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

14
15 DATED: June 8, 2015


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

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EXHIBIT A
Consent Order No. 14-259

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

BPMC No. 14-259

IN THE MATTER
OF
MARLON F. CASTILLO, M.D.

CONSENT
ORDER

Upon the application of (Respondent) MARLON F. CASTILLO, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either

by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR

upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 10/19/2014

REDACTED

ARTHUR S. HENGERER, M.D.
Chair
State Board for Professional Medical Conduct

1
NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
MARLON F. CASTILLO, M.D.

CONSENT
AGREEMENT

MARLON F. CASTILLO, M.D., represents that all of the following statements are true:

That on or about December 4, 2003, I was licensed to practice as a physician in the State of New York, and issued License No. 230700 by the New York State Education Department.

My current address is REDACTED
and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with two specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I assert that I cannot successfully defend against at least one of the acts of misconduct alleged, in full satisfaction of the charges against me, and agree to the following penalty:

Immediately upon issuance of the Consent Order for which I apply, my license to practice medicine shall be limited, pursuant to N.Y. Pub. Health Law § 230-a, to preclude patient contact and any practice of medicine, clinical or otherwise. I shall be precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition. I shall be precluded from further reliance upon my license to practice medicine to exempt me from the licensure, certification or other requirements set forth in statute or regulation for the practice of any other profession licensed, regulated or certified by the Board of Regents, Department of Education, Department of Health or the Department of State.

I further agree that the Consent Order for which I apply shall impose the following conditions:

That Respondent shall, within 30 days of the issuance of the Consent Order, notify the New York State Education Department, Division of Professional Licensing Services, that Respondent's license status is "inactive," and shall provide proof of such notification to the Director of OPMC immediately upon having done so; and

That Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719, with

the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information. This condition shall take effect 30 days after the Order's effective date and shall continue at all times until Respondent receives written notification from the Office of Professional Medical Conduct, Physician Monitoring Program, that OPMC has determined that Respondent has fully complied with and satisfied the requirements of the Order, regardless of tolling; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall comply with all conditions set forth in attached Exhibit "B" ("Requirements for Closing a Medical Practice").

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined in N.Y. Educ. Law § 6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

I am aware and agree that, regardless of prior communication, the attorney for the Department, the Director of the Office of Professional Medical Conduct, and the Chairperson of the State Board for Professional Medical Conduct each reserve full discretion to enter into the Consent Agreement that I propose in this application, or to decline to do so.

DATE 10/08/2014.

REDACTED
MARLON F. CASTILLO, M.D.
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 10/8/14

REDACTED

AMY T. KULB, ESQ.
Attorney for Respondent

DATE: 10/8/14

REDACTED

DAVID W. QUIST, ESQ.
Associate Attorney
Bureau of Professional Medical Conduct

DATE: 10/16/14

REDACTED

KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "A"

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

MARLON F. CASTILLO, M.D.

STATEMENT
OF
CHARGES

MARLON F. CASTILLO, M.D., the Respondent, was authorized to practice medicine in New York State on or about December 4, 2003, by the issuance of license number 230700 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about May 8, 2014 in the Supreme Court for the State of New York, Queens County, New York, Respondent entered a plea of guilty to, and was accordingly convicted of, aiding or abetting the unauthorized practice of medicine, in violation of New York State Education Law, Section 6512(1), a felony. Pursuant to that conviction, Respondent was sentenced on or about June 27, 2014, *inter alia*, to probation for a period of five years, and adjourned payment of a fifty dollar (\$50) DNA fee. Respondent also made agreed upon restitution to the patients harmed as a result of the Respondent's actions.

B. On or about March 14, 2013, Respondent filed an application with the New York State Department of Education for renewal of his registration to practice medicine in New York State. One of the questions on the application was "Are criminal charges pending against you in any court?" Respondent answered "no" to that question. However, the complaint in the matter referenced in paragraph "A," above was filed on or about April 11, 2012, Respondent was arrested in that matter on or about April 17, 2012, and Respondent was arraigned on those charges in the Criminal Court of the City of New York, Queens County, on or about April 18, 2012. Accordingly, Respondent was aware, or should have been aware, of the existence of pending criminal charges against him when he answered "no" to the question regarding pending criminal charges on his registration renewal application on March 14, 2013, subsequent to his arrest, the date of the criminal complaint, and his criminal arraignment but before his May 8, 2014 conviction.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

CRIMINAL CONVICTION (N.Y.S.)

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(i) by having been convicted of committing an act constituting a crime under New York state law as alleged in the facts of the following:

1. The facts in Paragraph A.

SECOND SPECIFICATION
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

2. The facts in Paragraph B.

DATE: October 10, 2014
Albany, New York

REDACTED

MICHAEL A. HISER, ESQ.
Deputy Counsel
Bureau of Professional Medical Conduct

EXHIBIT "B"

**Requirements for Closing a Medical Practice Following a
Revocation, Surrender, Limitation or Suspension of a Medical License**

1. Licensee shall immediately cease and desist from engaging in the practice of medicine in New York State, or under Licensee's New York license, in accordance with the terms of the Order. In addition, Licensee shall refrain from providing an opinion as to professional practice or its application and from representing that Licensee is eligible to practice medicine.
2. Within 5 days of the Order's effective date, Licensee shall deliver Licensee's current biennial registration to the Office of Professional Medical Conduct (OPMC) at Riverview Center, 150 Broadway, Suite 365, Albany, New York 12204-2719.
3. Within 15 days of the Order's effective date, Licensee shall notify all patients of the cessation or limitation of Licensee's medical practice, and shall refer all patients to another licensed practicing physician for continued care, as appropriate. Licensee shall notify, in writing, each health care plan with which the Licensee contracts or is employed, and each hospital where Licensee has privileges, that Licensee has ceased medical practice. Within 45 days of the Order's effective date, Licensee shall provide OPMC with written documentation that all patients and hospitals have been notified of the cessation of Licensee's medical practice.
4. Licensee shall make arrangements for the transfer and maintenance of all patient medical records. Within 30 days of the Order's effective date, Licensee shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate and acceptable contact persons who shall have access to these records. Original records shall be retained for at least 6 years after the last date of service rendered to a patient or, in the case of a minor, for at least 6 years after the last date of service or 3 years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure

engaging in the practice of medicine. Licensee may be compensated for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.

9. If Licensee is a shareholder in any professional service corporation organized to engage in the practice of medicine, Licensee shall divest all financial interest in the professional services corporation, in accordance with New York Business Corporation Law. Such divestiture shall occur within 90 days. If Licensee is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within 90 days of the Order's effective date.

10. Failure to comply with the above directives may result in a civil penalty or criminal penalties as may be authorized by governing law. Under N.Y. Educ. Law § 8512, it is a Class E Felony, punishable by imprisonment of up to 4 years, to practice the profession of medicine when a professional license has been suspended, revoked or annulled. Such punishment is in addition to the penalties for professional misconduct set forth in N.Y. Pub. Health Law § 230-a, which include fines of up to \$10,000 for each specification of charges of which the Licensee is found guilty, and may include revocation of a suspended license.