

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

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

David Reid Milstein, M.D.

**Physician's and Surgeon's
Certificate No. G 37026**

Respondent.

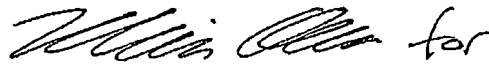
Case No. 800-2021-079156

DECISION

**The attached Default Decision 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 January 6,
2025. IT IS SO ORDERED December 6, 2024.**

MEDICAL BOARD OF CALIFORNIA



**Reji Varghese
Executive Director**

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 DANG VU
Deputy Attorney General
4 State Bar No. 306393
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6277
6 Facsimile: (916) 731-2117
E-mail: Dang.Vu@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12 **DAVID REID MILSTEIN, M.D.**
13 **5638 Bartlett Ridge Court**
Las Vegas, NV 89141-8737

14
15 **Physician's and Surgeon's Certificate**
No. G 37026,

16 Respondent.
17

Case No. 800-2021-079156

18 **DEFAULT DECISION**
AND ORDER

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On June 21, 2024, Complainant Reji Varghese, in his official capacity as the
21 Executive Director of the Medical Board of California, Department of Consumer Affairs, filed
22 Accusation and Petition to Revoke Probation No. 800-2021-079156 against David Reid Milstein,
23 M.D. ("Respondent") before the Medical Board of California ("Board").

24 2. On July 1, 1978, the Board issued Physician's and Surgeon's Certificate No. G 37026
25 to Respondent. The Physician's and Surgeon's Certificate expired on May 31, 2022, and has not
26 been renewed. A copy of a Certificate of Licensure for Respondent, including his address of
27 record with the Board, is attached as **Exhibit A** to the Default Decision Evidence Packet
28 (hereinafter, the "Evidence Packet") and is incorporated herein by reference as if fully set forth

1 herein.¹

2 3. Business and Professions Code section 118 states, in pertinent part:

3 (b) The suspension, expiration, or forfeiture by operation of law of a license
4 issued by a board in the department, or its suspension, forfeiture, or cancellation by
5 order of the board or by order of a court of law, or its surrender without the written
6 consent of the board, shall not, during any period in which it may be renewed,
7 restored, reissued, or reinstated, deprive the board of its authority to institute or
8 continue a disciplinary proceeding against the licensee upon any ground provided by
9 law or to enter an order suspending or revoking the license or otherwise taking
10 disciplinary action against the licensee on any such ground.

11 4. On June 21, 2024, an employee of the Complainant Agency served by certified mail
12 and first class mail a copy of Accusation and Petition to Revoke Probation No. 800-2021-079156,
13 Statement to Respondent, Notice of Defense (two copies), Request for Discovery, and
14 Government Code sections 11507.5, 11507.6, 11507.7, and 11455.10 to Respondent's address of
15 record with the Board, which was and is 5638 Bartlett Ridge Court, Las Vegas, Nevada 89141-
16 8737. A copy of the Accusation and Petition to Revoke Probation, the related documents, and
17 Declaration of Service are attached as **Exhibit B** to the Evidence Packet and are incorporated
18 herein by reference.

19 5. On or about June 24, 2024, the United States Postal Service ("USPS") attempted to
20 deliver the certified mail copy of Accusation and Petition to Revoke Probation No. 800-2021-
21 079156, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
22 Code sections 11507.5, 11507.6, 11507.7, and 11455.10, but the package was unclaimed and
23 returned to the sender on or about July 16, 2024. A copy of the USPS tracking history, as well as
24 a copy of the return envelope, is attached as **Exhibit C** to the Evidence Packet and is incorporated
25 herein by reference.

26 6. On August 29, 2024, an employee of the California Department of Justice, Office of
27 the Attorney General, served by certified mail and first class mail a Courtesy Notice of Default to
28 Respondent's address of record, which included a copy of the Accusation and Petition to Revoke
Probation and Notice of Defense previously served on Respondent and advised him that if he

¹ The exhibits referred to herein, which are true and correct copies of the originals, are contained in the separate accompanying Evidence Packet, which is hereby incorporated by reference, in its entirety, as if fully set forth herein.

1 failed to take action to file a Notice of Defense by September 12, 2024, the Board would enter a
2 Default Decision against his license which may be revoked or suspended without any hearing. A
3 copy of the Courtesy Notice of Default is attached as **Exhibit D** to the Evidence Packet and is
4 incorporated herein by reference.

5 7. Service of the Accusation and Petition to Revoke Probation was effective as a matter
6 of law under the provisions of Government Code section 11505, subdivision (c).

7 8. Government Code section 11506 states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts
10 of the accusation not expressly admitted. Failure to file a notice of defense shall
11 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
12 may nevertheless grant a hearing.

11 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
12 of the Accusation and Petition to Revoke Probation, and therefore waived his right to a hearing on
13 the merits of the charges and allegations contained therein. A copy of the Declaration of the
14 Deputy Attorney General, stating that no Notice of Defense has been received to date, is attached
15 as **Exhibit E** to the Evidence Packet and is incorporated herein by reference.

16 10. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at the
18 hearing, the agency may take action based upon the respondent's express admissions
19 or upon other evidence and affidavits may be used as evidence without any notice to
20 respondent.

20 11. Respondent's license is subject to discipline for committing unprofessional conduct,
21 specifically gross negligence under Business and Professions Code (hereinafter, "Code") section
22 2234, subdivision (b), and failing to maintain adequate and accurate medical records under Code
23 section 2266, in connection with his care and treatment of one patient as alleged in Accusation
24 and Petition to Revoke Probation No. 800-2021-079156. A copy of the declaration of the Board's
25 expert is attached as **Exhibit F** to the Evidence Packet and is incorporated herein by reference.

26 12. Further, Respondent's probation is subject to revocation because he failed to comply
27 with Condition Nos. 6, 7, 8, 10, and 12 of the Board's Decision and Order in Board Case No.
28 800-2018-050126, effective May 11, 2022 (2022 Order). A copy of the Declaration from the

1 Board's Probation Inspector is attached as **Exhibit G** to the Evidence Packet and is incorporated
2 herein by reference.

3 13. Business and Professions Code section 125.3 states, in pertinent part:

4 (a) Except as otherwise provided by law, in any order issued in resolution of a
5 disciplinary proceeding before any board within the department or before the
6 osteopathic Medical Board, upon request of the entity bringing the proceeding, the
7 administrative law judge may direct a licensee found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the
investigation and enforcement of the case.

8 14. The reasonable costs for the investigation and enforcement of Accusation and Petition
9 to Revoke Probation No. 800-2021-079156 are \$34,735.00. The certification of costs is attached
10 as **Exhibit H** to the Evidence Packet and is incorporated herein by reference. Condition No. 14
11 of the Order requires that Respondent pay to the Board the costs of probation monitoring.
12 Currently, the total outstanding amount of probation monitoring costs owed by Respondent to the
13 Board is \$3,531.43. See Exhibit G.

14 15. Pursuant to its authority under Government Code section 11520, the Board finds
15 Respondent is in default. The Board will take action without further hearing and, based on
16 Respondent's express admissions by way of default and the evidence before it, contained in
17 Exhibits A through H, finds that the allegations in Accusation and Petition to Revoke Probation
18 No. 800-2021-079156, and each of them, separately and severally, are true.

19 **DETERMINATION OF ISSUES**

20 1. Based on the foregoing findings of fact, Respondent David Reid Milstein, M.D. has
21 subjected his Physician's and Surgeon's Certificate No. G 37026 to discipline.

22 2. A copy of the Accusation and Petition to Revoke Probation, the related documents
23 and Declaration of Service are attached hereto as Exhibit B.

24 3. The Medical Board of California has jurisdiction to adjudicate this case by default.

25 4. The Medical Board of California is authorized to revoke Respondent's Physician's
26 and Surgeon's Certificate based upon the following violations alleged in the Accusation and
27 Petition to Revoke Probation:

28 a. Respondent was grossly negligent in his care and treatment of Patient A,

1 pursuant to Code section 2234, subdivision (b) (See Exhibit F);

2 b. Respondent failed to maintain adequate and accurate medical records of his
3 care and treatment of Patient A, pursuant to Code section 2266 (See Exhibit F);

4 c. Respondent failed to comply with Probation Condition 6 of the 2022 Order
5 (Obey All Laws) (See Exhibit G);

6 d. Respondent failed to comply with Probation Condition 7 of the 2022 Order
7 (Quarterly Declarations) (See Exhibit G);

8 e. Respondent failed to comply with Probation Condition 8 of the 2022 Order
9 (General Probation Requirements – Address Change, License Renewal) (See Exhibit G);

10 f. Respondent failed to comply with Probation Condition 10 of the 2022 Order
11 (Non-Practice While on Probation) (See Exhibit G); and

12 g. Respondent failed to comply with Probation Condition 12 of the 2022 Order
13 (Violation of Probation) (See Exhibit G).

14 5. Pursuant to Code section 125.3, the Board is authorized to order Respondent to pay
15 the Board the reasonable costs of investigation and enforcement of Accusation and Petition to
16 Revoke Probation No. 800-2021-079156 totaling \$34,735.00. (See Exhibit H.)

17 6. Pursuant to Probation Condition 14 of the Decision and Order in case number 800-
18 2018-050126, Respondent owes \$3,531.43 in outstanding probation monitoring costs to the
19 Board. (See Exhibit G.)

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1 **ORDER**

2 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G 37026, heretofore
3 issued to Respondent DAVID REID MILSTEIN, M.D., is revoked for each of the violations,
4 separately and severally, found in the Determination of Issues above.

5 Respondent is ordered to pay the Board the costs of the investigation and enforcement of
6 this case in the amount of \$34,735.00. Further, Respondent is ordered to reimburse the Board the
7 amount of \$3,531.43, for its outstanding probation monitoring costs. The filing of bankruptcy by
8 Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs.
9 Respondent must pay the entire amount of costs prior to petitioning for reinstatement.

10 If Respondent ever files an application for re-licensure or reinstatement in the State of
11 California, the Board shall treat it as a petition for reinstatement. Respondent must comply with
12 all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time
13 the petition is filed.

14 **Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a**
15 **written motion requesting that the Decision be vacated and stating the grounds relied on**
16 **within seven (7) days after service of the Decision on Respondent.** The Board in its discretion
17 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
18 statute.

19 This Decision shall become effective at 5:00 p.m. on January 6, 2025.

20 It is so ORDERED December 6, 2024

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23 
24 REJI VARGHESE
25 EXECUTIVE DIRECTOR
26 FOR THE MEDICAL BOARD OF
CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

27 Attachment: Default Decision Evidence Packet
28

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 State Bar No. 195729
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 269-6000
5 Facsimile: (916) 731-2117
Attorneys for Complainant
6

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

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case No. 800-2021-079156

13 **DAVID REID MILSTEIN, M.D.**
14 **5638 Bartlett Ridge Court**
Las Vegas, NV 89141-8737

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

15 **Physician's and Surgeon's Certificate**
No. G 37026,

16 Respondent.
17

18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation and Petition to Revoke Probation
20 solely in his official capacity as the Executive Director of the Medical Board of California,
21 Department of Consumer Affairs (Board).

22 2. On or about July 1, 1978, the Board issued Physician's and Surgeon's Certificate
23 Number G 37026 to David Reid Milstein, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate expired on May 31, 2022, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation and Petition to Revoke Probation is brought before the Board, under
27 the authority of the following laws and the prior disciplinary action entitled *In the Matter of the*
28 *Accusation Against David Reid Milstein, M.D.*, before the Medical Board of California in Case

1 Number 800-2018-050126. All section references are to the Business and Professions Code
2 (Code) unless otherwise indicated.

3 4. In the prior disciplinary action entitled *In the Matter of the Accusation against David*
4 *Reid Milstein, M.D.*, before the Medical Board of California in Case Number 800-2018-050126,
5 an Accusation was filed against Respondent on October 12, 2021. A First Amended Accusation
6 was filed on February 24, 2022, which alleged causes of discipline for gross negligence, repeated
7 negligent acts, and failure to maintain adequate and accurate records. Respondent entered into a
8 Stipulated Settlement and Disciplinary Order which was adopted by the Board on April 11, 2022,
9 with an effective date of May 11, 2022. The Board's Decision in Case No. 800-2018-050126
10 resulted in Respondent being placed on probation for five (5) years from the effective date of
11 May 11, 2022, under various terms and conditions. That Decision is now final and is
12 incorporated by reference as if fully set forth herein.

13 5. Section 2227 of the Code states:

14 (a) A licensee whose matter has been heard by an administrative law judge of
15 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
16 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:

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

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

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

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

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

25 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
26 medical review or advisory conferences, professional competency examinations,
27 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.

28 ///

1 and appropriate equipment, oxygen, and medication, are onsite and available to
2 handle the procedure being performed and any medical emergency that may arise in
3 connection with that procedure. The physician shall either have admitting privileges
4 at a local general acute-care hospital or have a written transfer agreement with such a
5 hospital or with a licensed physician who has admitting privileges at such a hospital.

6
7 (2) Anesthesia. Anesthesia shall be provided by a qualified licensed
8 practitioner. The physician who is performing the procedure shall not also administer
9 or maintain the anesthesia or sedation unless a licensed person certified in advanced
10 cardiac life support is present and is monitoring the patient.

11
12 (3) Monitoring. The following monitoring shall be available for volumes
13 greater than 150 and less than 2,000 cubic centimeters of total aspirate and shall be
14 required for volumes between 2,000 and 5,000 cubic centimeters of total aspirate:

15 (A) Pulse oximeter

16 (B) Blood pressure (by manual or automatic means)

17 (C) Fluid loss and replacement monitoring and recording

18 (D) Electrocardiogram.

19 COST RECOVERY

20 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
24 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
25 included in a stipulated settlement.

26 FIRST CAUSE FOR DISCIPLINE

27 (Gross Negligence)

28 11. Respondent is subject to disciplinary action under section 2227 and 2234, as defined
by section 2234, subdivision (b), of the Code in that he committed gross negligence in connection
with his care and treatment of Patient A¹, as more fully alleged herein:

12. On or about January 22, 2020, Respondent had a body sculpture consultation with
Patient A, a 25-year-old female, who was 5 foot, 3 inches tall, with a weight of 132 pounds. The

¹ The patient's actual name is not used in this Accusation to maintain patient
confidentiality. The patient identity is known to Respondent and will be disclosed to Respondent
upon a duly issued request for discovery in accordance with Government Code section 11507.6.

1 documented "bodysculpture treatment plan" was to work on the patient's lower abdomen, upper
2 abdomen, back lower, and do a fat transfer. Respondent's note also indicated his plan to biopsy a
3 birth mark on the patient's back. Other boxes were marked which included "realistic benefits
4 reviewed," "notation of scars, irregularities, & asymmetries," and pre-operative prescriptions for
5 Keflex, Ativan and Norco.

6 13. On or about March 20, 2022, Respondent performed his body sculpture procedure on
7 Patient A which took approximately two hours. The areas treated were the lower abdomen, upper
8 abdomen, flank, lower back, with a fat transfer to the buttocks. The total aspirate² removed for
9 the abdomen, flanks and hips was 3750 cc's with 1250 to 1400 cc's of fat transferred to the
10 buttocks.

11 14. On or around April or May 2020, Patient A indicated she was unhappy with a portion
12 of her liposuction procedure. Respondent reviewed the area of concern and agreed "there was
13 some asymmetry" in the "right posterior flank" area. Respondent's plan was to allow more time
14 for healing and, if that was insufficient, he would do a revision procedure, where he would not
15 bill for his time, just the cost of materials which was approximately \$350. Patient A was not
16 happy about paying any additional fee.³

17 15. On or about August 25, 2020, Respondent performed his revision procedure on
18 Patient A which took approximately fifteen minutes. The areas treated were the right flank and
19 right back with a total of 800 cc's of aspirate removed. Respondent indicated later that Patient A
20 was not fully satisfied with the revision.

21 16. On or about March 20, 2020, Respondent committed gross negligence in connection
22 with the first liposuction procedure, when he failed to comply with Title 16, section 1656.6, by
23 not providing for IV access, IV fluid replacement, continuous EKG monitoring, or indicating
24 whether the discharge criteria were met. Respondent failed to document IV access, IV fluid

25
26 ² Total aspirate is defined as the combination of total fat and fluid removed during
27 liposuction. The total aspirate metric is typically used when tracking the volume removed as part
28 of a liposuction procedure.

³ A later note in Respondent's certified medical records references the revision and
indicates Respondent "had not charged her."

1 replacement, continuous EKG monitoring, or whether discharge criteria were met.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Failure to Maintain Adequate and Accurate Medical Records)**

4 17. Respondent is subject to disciplinary action under Code sections 2227 and 2266 in
5 that he failed to maintain adequate and accurate records. The circumstances are as follows:

6 18. The allegations in the First Cause for Discipline above are incorporated herein by
7 reference as if fully set forth.

8 **FIRST CAUSE TO REVOKE PROBATION**

9 **(Obey All Laws)**

10 19. At all times after the effective date of Respondent's probation, Respondent was
11 required to comply with Probation Condition 6, which states:

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

15 20. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition 6 in that he has violated rules governing the practice of medicine, as more
17 particularly alleged in the First Cause for Discipline above, which allegations are incorporated by
18 reference and realleged as if fully set forth herein.

18 **SECOND CAUSE TO REVOKE PROBATION**

19 **(Quarterly Declarations)**

20 21. At all times after the effective date of Respondent's probation, Respondent was
21 required to comply with Probation Condition 7, which states:

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

27 22. Respondent's probation is subject to revocation because he failed to comply with
28 Probation Condition 7 by not submitting quarterly declarations under penalty of perjury to the
Board. The facts and circumstances regarding this violation are as follows:

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6

23. On or about April 17, 2023, the Board sent Respondent an email which stated, in pertinent part:

"Good Afternoon Dr. Milstein, [¶] I am contacting you as you have been reassigned to my caseload. Please give me a call at the telephone number below, so that we can discuss the terms and conditions of your tolled (out-of-state) probation requirements, as well as additional information that I need to obtain from you. I have attached a blank Quarterly Declaration form for you to complete and return to me. Please email me a copy of your completed declaration as soon as possible. You will need to mail the original to my attention, at the below address, as your probation filed requires an original signature. As a reminder, you[r] CA Physician's and Surgeon's license expired on May 31, 2022, and is now delinquent. Failure to maintain a current and renewed license is a violation of your probation and may result in further disciplinary action. Again, please contact me at the telephone number below as soon as possible. Thank you." (Underline added.)

24. On or about April 18, 2023, the Board sent a follow up email to Respondent which stated the following:

"Hello Dr. Milstein, [¶] Yesterday I sent you an email with a letter and a blank quarterly declaration form attached. Please confirm receipt of my email. Also, I have made several unsuccessful attempts to reach you at the telephone numbers on file to speak with you regarding your TOLLED (out of state) Probation. It is urgent that I speak with you to obtain updated contact information and to discuss your probation requirements in detail. The telephone numbers I have on file for you are [omitted] (disconnected) and [omitted] (I have left several messages). Looking forward to speaking with you by COB today or tomorrow morning before noon. Thank you." (Underline added.)

25. On or about April 18, 2023, the Board sent Respondent a Non-Compliance Letter to Respondent's address of record in Las Vegas, Nevada.

26. On or about April 26, 2023, the Board sent Respondent an email which stated:

"Hello Dr. Milstein, [¶] You have failed to submit quarterly declarations for QTR II, III, IV 2022 & QTR I 2023. You are out of compliance with the terms and conditions of your probation. I have attached a blank Quarterly Declaration Form for you to make copies, so that you can complete your delinquent declarations. Please submit delinquent declarations by May 6, 2023. Also, please read the attached Non-Compliance Letter. I am requesting that you confirm receipt of this email. If you have any questions regarding this matter, please feel free to contact me at the telephone number below."

27. On or about April 26, 2023, the Board also mailed a Non-Compliance Letter to Respondent advising him that the Board had not received his Quarterly Declaration for the following quarters (which were delinquent): the second, third and fourth quarters of 2022 and the first quarter for 2023. Respondent was advised to submit the quarterly declarations by May 6,

1 2023, which Respondent failed to do. To date, Respondent has not submitted these delinquent
2 quarterly reports.

3 THIRD CAUSE TO REVOKE PROBATION

4 (General Probation Requirements – Address Change)

5 28. At all times after the effective date of Respondent's probation, Respondent was
6 required to comply with Probation Condition 8, Address Changes, which states:

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

11 29. Respondent's probation is subject to revocation because he has failed to comply with
12 Probation Condition 8 by failing to keep the Board informed of Respondent's current residence
13 address, email address, and telephone number. The facts and circumstances regarding this
14 violation are as follows:

15 30. The allegations of the Second Cause to Revoke Probation are incorporated by
16 reference as if fully set forth herein.

17 31. On or about May 20, 2022, the Board sent Respondent's attorney an email advising
18 him that the Board had attempted to contact Respondent at his phone number of record with the
19 Board and sent an email to Respondent's email address of record with the Board, with no
20 response. The Board's email requested "If you can get in contact with your client, can you please
21 have him contact me at the [phone numbers provided]." To date, there is no response from
22 Respondent or his attorney to the Board's request.

23 32. On or about April 17, 2023, the Board sent Respondent an email to Respondent's
24 email address of record with the Board and requested that he contact the Board, which he failed to
25 do.

26 33. On or about April 17, 2023, the Board sent correspondence to Respondent at his
27 address of record which advised him that "[p]ursuant to the General Probation Requirements
28 condition of your Decision, you are required to notify the Board immediately, in writing, of any

1 changes to your residence or business addresses, email address and telephone number.” The
2 Board’s letter was returned to the Board on or about May 2, 2023 with a “return to sender” label.

3 34. On or about April 18, 2023, the Board sent Respondent another email seeking to
4 confirm that he received the April 17th email and requested, once again, that he contact the Board.
5 The email also advised him that the Board attempted to contact him on his phone number of
6 record with the Board which was disconnected and that several voicemail messages had been left
7 at an alternate phone number. To date, there is no reply by Respondent to these requests for
8 contact/communication.

9 35. On or about May 2, 2023, the correspondence that was originally sent to Respondent
10 on April 17, 2023, was returned with a label indicating “Return to Sender – Unable to Forward.”

11 FOURTH CAUSE TO REVOKE PROBATION

12 (General Probation Requirements – License Renewal)

13 36. At all times after the effective date of Respondent’s probation, Respondent was
14 required to comply with Probation Condition 8, License Renewal, which states:

15 License Renewal [¶] Respondent shall maintain a current and renewed
16 California physician’s and surgeon’s license.

17 37. Respondent’s probation is subject to revocation because he failed to comply with
18 Probation Condition 8 by not maintaining a current and renewed medical license in California.
19 The facts and circumstances regarding this violation are as follows:

20 38. On or about May 31, 2022, Respondent failed to renew his medical license in
21 California, which resulted in his license being placed in delinquent status.

22 39. On or about December 29, 2022, the Board advised Respondent that his California
23 Physician’s and Surgeon’s license was in delinquent status and “[t]o come into compliance with
24 your probation your license must be renewed as soon as possible.”

25 40. On or about April 17, 2023, the Board sent Respondent an email to Respondent’s
26 email address of record with the Board, which advised him, once again, that his “CA Physician’s
27 and Surgeon’s license expired on May 31, 2022, and is now delinquent” and that “[f]ailure to
28 maintain a current and renewed license is a violation of your probation and may result in further

1 disciplinary action." Respondent was requested to please contact the Board as soon as possible,
2 which he never did.

3 41. On or about August 26, 2023, the Board sent Respondent a Non-Compliance Letter to
4 Respondent's address of record with the Board which advised him that his license was delinquent.
5 Respondent was requested to provide proof that he had renewed his Physician's and Surgeon's
6 License by May 6, 2023, which Respondent failed to do.

7 **FIFTH CAUSE TO REVOKE PROBATION**

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

9 42. At all times after the effective date of Respondent's probation, Respondent was
10 required to comply with Probation Condition 10, which states:

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

27 In the event Respondent's period of non-practice while on probation exceeds 18
28 calendar months, Respondent shall successfully complete the Federation of State
Medical Boards' Special Purpose Examination, or, at the Board's discretion, a clinical
competence assessment program that meets the criteria of Condition 18 of the current
version of the Board's "Manual of Model Disciplinary Orders and Disciplinary
Guidelines" prior to resuming the practice of medicine.

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

31 Periods of non-practice will not apply to the reduction of the probationary term.
32 Periods of non-practice for a Respondent residing outside of California will
33 relieve Respondent of the responsibility to comply with the probationary terms and
34 conditions with the exception of this condition and the following terms and conditions
35 of probation: Obey All Laws; General Probation Requirements; Quarterly
36 Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and
37 Biological Fluid Testing. (Underline added.)
38

1 43. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 10 because his period of non-practice has exceeded two years from the
3 effective date of his probation.

4 **SIXTH CAUSE TO REVOKE PROBATION**

5 **(Violation of Probation)**

6 44. At all times after the effective date of Respondent's probation, Respondent was
7 required to comply with Probation Condition 12, which states:

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

13 45. Respondent's probation is subject to revocation because he failed to comply with
14 Probation Condition 12 by failing to fully comply with the terms and conditions of his probation
15 as set forth in the First through Fifth Causes to Revoke Probation which are incorporated by
16 reference as if fully set forth herein.

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1 PRAYER

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

4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 37026,
5 issued to Respondent David Reid Milstein, M.D.;

6 2. Revoking, suspending or denying approval of Respondent David Reid Milstein,
7 M.D.'s authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Respondent David Reid Milstein, M.D., to pay the Board the costs of the
9 investigation and enforcement of this case, and if placed on probation, the costs of probation
10 monitoring; and

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

12
13 DATED: JUN 21 2024

14 
15 REJI VARGHESE
16 Executive Director
17 Medical Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant

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

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

David Reid Milstein, M.D.

**Physician's and Surgeon's
Certificate No. G 37026**

Case No.: 800-2018-050126

Respondent.

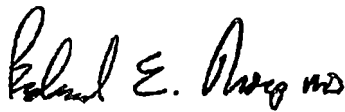
DECISION

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 May 11, 2022.

IT IS SO ORDERED: April 11, 2022.

MEDICAL BOARD OF CALIFORNIA



**Richard E. Thorp, M.D., Chair
Panel B**

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
Deputy Attorney General
4 State Bar No. 234540
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9465
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the First Amended Accusation
14 Against:

15 **DAVID REID MILSTEIN, M.D.**
16 **16260 Ventura Blvd., Suite 525**
Encino, CA 91436

17 **Physician's and Surgeon's Certificate**
No. G 37026,

18 Respondent.

Case No. 800-2018-050126

OA# No. 2021120450

15 **STIPULATED SETTLEMENT AND**
16 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Rob Bonta, Attorney General of the State of California, by Karolyn M. Westfall,
26 Deputy Attorney General.

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2. Respondent David Reid Milstein, M.D. (Respondent) is represented in this proceeding by attorney Michael D. Gonzalez, Esq., whose address is: 101 N. Brand Boulevard, Suite 1880, Glendale, CA 91203.

3. On or about July 1, 1978, the Board issued Physician's and Surgeon's Certificate No. G 37026 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-050126, and will expire on May 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-050126, which superseded the Accusation filed on October 12, 2021, was filed before the Board on February 24, 2022, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on February 24, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of First Amended Accusation No. 800-2018-050126 is attached hereto 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 First Amended Accusation No. 800-2018-050126. Respondent has also carefully read, fully discussed with his 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 First Amended Accusation; 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.

III

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 that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2018-050126, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. G 37026 to disciplinary action.

10. Respondent further agrees that if he ever petitions for modification or early termination of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2018-050126 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 or elsewhere.

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

CONTINGENCY

12. 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.

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13. 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 First Amended Accusation No. 800-2018-050126 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.

14. 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.

15. 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. G 37026 issued to Respondent DAVID REID MILSTEIN, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years from the effective date of the Order on the following terms and conditions:

1. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have

1 been approved by the Board or its designee had the course been taken after the effective date of
2 this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its
4 designee not later than 15 calendar days after successfully completing the course, or not later than
5 15 calendar days after the effective date of the Decision, whichever is later.

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

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

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

24 3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
25 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
26 program approved in advance by the Board or its designee. Respondent shall successfully
27 complete the program not later than six (6) months after Respondent's initial enrollment unless
28 the Board or its designee agrees in writing to an extension of that time.

1 The program shall consist of a comprehensive assessment of Respondent's physical and
2 mental health and the six general domains of clinical competence as defined by the Accreditation
3 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
4 cosmetic medicine. The program shall take into account data obtained from the pre-assessment,
5 self-report forms and interview, and the Decision(s), Accusation(s), and any other information
6 that the Board or its designee deems relevant. The program shall require Respondent's on-site
7 participation for a minimum of three (3) and no more than five (5) days as determined by the
8 program for the assessment and clinical education evaluation. Respondent shall pay all expenses
9 associated with the clinical competence assessment program.

10 At the end of the evaluation, the program will submit a report to the Board or its designee
11 which unequivocally states whether the Respondent has demonstrated the ability to practice
12 safely and independently. Based on Respondent's performance on the clinical competence
13 assessment, the program will advise the Board or its designee of its recommendation(s) for the
14 scope and length of any additional educational or clinical training, evaluation or treatment for any
15 medical condition or psychological condition, or anything else affecting Respondent's practice of
16 medicine. Respondent shall comply with the program's recommendations.

17 Determination as to whether Respondent successfully completed the clinical competence
18 assessment program is solely within the program's jurisdiction.

19 Respondent shall not practice cosmetic medicine until Respondent has successfully
20 completed the program and has been so notified by the Board or its designee in writing.

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

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1 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
2 calendar days.

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

4 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
5 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
6 advanced practice nurses.

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

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

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

15 8. GENERAL PROBATION REQUIREMENTS.

16 Compliance with Probation Unit

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

18 Address Changes

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

24 Place of Practice

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

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1 License Renewal

2 Respondent shall maintain a current and renewed California physician's and surgeon's
3 license.

4 Travel or Residence Outside California

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

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

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

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

28 ///

1 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
2 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
3 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
4 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
5 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

8 Periods of non-practice for a Respondent residing outside of California will relieve
9 Respondent of the responsibility to comply with the probationary terms and conditions with the
10 exception of this condition and the following terms and conditions of probation: Obey All Laws;
11 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
12 Controlled Substances; and Biological Fluid Testing..

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

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

24 13. LICENSE SURRENDER. Following the effective date of this Decision, if
25 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
26 the terms and conditions of probation, Respondent may request to surrender his or her license.
27 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
28 determining whether or not to grant the request, or to take any other action deemed appropriate

1 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
 2 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
 3 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
 4 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
 5 application shall be treated as a petition for reinstatement of a revoked certificate.

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

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 13 discussed it with my attorney, Michael D. Gonzalez, Esq. I understand the stipulation and the
 14 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
 15 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
 16 bound by the Decision and Order of the Medical Board of California.

17
 18 DATED: 3/4/2022

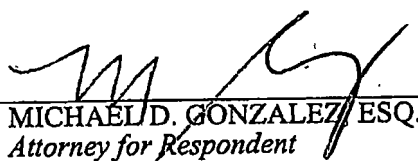
DocuSigned by:



DAVID REID MILSTEIN, M.D.
 Respondent

20
 21 I have read and fully discussed with Respondent David Reid Milstein, M.D., the terms and
 22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
 23 I approve its form and content.

24
 25 DATED: 3/4/22


 MICHAEL D. GONZALEZ, ESQ.
 Attorney for Respondent

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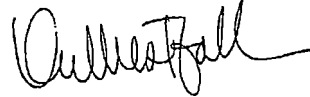
ENDORSEMENT

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

DATED: 3/4/22

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
Deputy Attorney General
4 State Bar No. 234540
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9465
7 Facsimile: (619) 645-2061

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 First Amended Accusation
14 Against:

Case No. 800-2018-050126

FIRST AMENDED ACCUSATION

15 **DAVID REID MILSTEIN, M.D.**
16 **16260 Ventura Blvd., Suite 525**
Encino, CA 91436

17 **Physician's and Surgeon's Certificate**
No. G 37026,

18 Respondent.

19
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about July 1, 1978, the Medical Board issued Physician's and Surgeon's
25 Certificate No. G 37026 to David Reid Milstein, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on May 31, 2022, unless renewed.

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

(1) Have his or her license revoked 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.

(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.

...

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:

...

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

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

III

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

6 ...

7 6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
8 adequate and accurate records relating to the provision of services to their patients constitutes
9 unprofessional conduct.

10 COST RECOVERY

11 7. Section 125.3 of the Code states:

12 (a) Except as otherwise provided by law, in any order issued in resolution of a
13 disciplinary proceeding before any board within the department or before the
14 Osteopathic Medical Board upon request of the entity bringing the proceeding, the
15 administrative law judge may direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
17 investigation and enforcement of the case.

18 (b) In the case of a disciplined licentiate that is a corporation or a partnership,
19 the order may be made against the licensed corporate entity or licensed partnership.

20 (c) A certified copy of the actual costs, or a good faith estimate of costs where
21 actual costs are not available, signed by the entity bringing the proceeding or its
22 designated representative shall be prima facie evidence of reasonable costs of
23 investigation and prosecution of the case. The costs shall include the amount of
24 investigative and enforcement costs up to the date of the hearing, including, but not
25 limited to, charges imposed by the Attorney General.

26 (d) The administrative law judge shall make a proposed finding of the amount
27 of reasonable costs of investigation and prosecution of the case when requested
28 pursuant to subdivision (a). The finding of the administrative law judge with regard
to costs shall not be reviewable by the board to increase the cost award. The board
may reduce or eliminate the cost award, or remand to the administrative law judge if
the proposed decision fails to make a finding on costs requested pursuant to
subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as
directed in the board's decision, the board may enforce the order for repayment in any
appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be
conclusive proof of the validity of the order of payment and the terms for payment.

(g)(1) Except as provided in paragraph (2), the board shall not renew or
reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

1 (2) Notwithstanding paragraph (1), the board may, in its discretion,
2 conditionally renew or reinstate for a maximum of one year the license of any
3 licensee who demonstrates financial hardship and who enters into a formal agreement
4 with the board to reimburse the board within that one-year period for the unpaid
5 costs.

6 (h) All costs recovered under this section shall be considered a reimbursement
7 for costs incurred and shall be deposited in the fund of the board recovering the costs
8 to be available upon appropriation by the Legislature.

9 (i) Nothing in this section shall preclude a board from including the recovery of
10 the costs of investigation and enforcement of a case in any stipulated settlement.

11 (j) This section does not apply to any board if a specific statutory provision in that board's
12 licensing act provides for recovery of costs in an administrative disciplinary proceeding.

13 FIRST CAUSE FOR DISCIPLINE

14 (Gross Negligence)

15 8. Respondent has subjected his Physician's and Surgeon's Certificate No: G 37026 to
16 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
17 the Code, in that he was grossly negligent in his care and treatment of Patient A,¹ as more
18 particularly alleged hereinafter:

19 9. On or about July 14, 2016, after purchasing a Groupon, Patient A presented to
20 Respondent for a "body sculpture" consultation. Patient A had a history of sickle cell disease,²
21 splenectomy, cholecystectomy, and breast reduction. At this visit, and every visit thereafter,
22 Respondent's handwritten notes are cursory and difficult to read. During this initial consultation,
23 a complete physical exam was not performed and/or documented by Respondent. Patient A's
24 "body sculpture treatment plan" included her lower and upper abdomen and her lower and upper
25 back. The surgery was scheduled for September 15, 2016. At the conclusion of the visit, Patient
26 A was provided "pre-treatment instructions," that included instructions to eat a heavy protein
27 meal before the procedure.

28 ¹ To protect the privacy of the patient involved, the patient's name has not been included
in this pleading. Respondent is aware of the identity of the patient referred to herein.

² Sickle cell disease is a group of inherited red blood cell disorders, wherein the red blood
cells contort into a sickle shape. The cells die early, leaving a shortage of healthy red blood cells
(sickle cell anemia), and can block blood flow causing pain (sickle cell crisis). Infections, pain,
and fatigue are common symptoms of sickle cell disease.

1 10. On or about August 4, 2016, Patient A obtained lab work from her primary care
2 physician, J.G., M.D. (Dr. J.G.), which revealed a hemoglobin of 8.7 g/dL and hematocrit of
3 27.7%. These results were provided to Respondent on or about August 15, 2016.

4 11. On or about September 1, 2016, Respondent spoke with Dr. J.G. and was informed
5 that the frequency of Patient A's sickle cell attacks was unknown but that her most recent attack
6 was six months prior.³ Dr. J.G. also informed Respondent that Patient A had prior transfusions.
7 After speaking with Dr. J.G., Respondent decided to proceed with the patient's surgery in two
8 stages.

9 12. On or about September 15, 2016, Patient A presented to Respondent for her first
10 scheduled surgery. Prior to the surgery, Patient A signed a "body sculpture" consent form.
11 Between approximately 2:20 p.m. and 3:27 p.m., Respondent performed suction assisted
12 lipoplasty⁴ on Patient A, during which he removed approximately 1500 cubic centimeters of fat
13 from the patient's abdomen. Respondent's "body sculpture operative report" identified 1000 mg
14 Keflex and 7 ml Versed were administered to the patient, but the method of administration was
15 not noted. The amount of tumescent fluid injected was also not noted. The patient's records for
16 that date identified preoperative and postoperative vital signs, but did not include any vital signs
17 taken during the procedure.

18 13. On or about September 20, 2016, Patient A presented to Respondent for a post-
19 operative follow-up evaluation. At this visit, Respondent noted the patient's incision sites were
20 clean, dry, and healing. At the conclusion of this visit, Respondent instructed Patient A to return
21 in five days for another evaluation.⁵

22 14. On or about October 18, 2016, Patient A was scheduled for her lower and upper back
23 "body sculpture" on November 8, 2016.

24
25 ³ According to the patient's medical records, she was hospitalized for approximately two
weeks in February 2016 for a sickle cell crisis.

26 ⁴ Lipoplasty uses high-frequency sound waves to liquefy fat beneath the skin's surface
27 before removing it with gentle suction.

28 ⁵ The patient's medical records do not contain any subsequent follow-up visits from this
first surgery.

1 15. On or about November 8, 2016, Patient A presented to Respondent for her second
2 surgery. Prior to the surgery, Patient A signed a "body sculpture" consent form and a form
3 entitled "Informed consent – Fat transfer procedures fat grafts injections to face / breast /
4 buttocks." A hemoglobin test taken that day revealed a result of 8.4 g/dL. Between approximately
5 11:55 a.m. and 1:14 p.m., Respondent performed suction assisted lipoplasty without autologous
6 fat transfer on Patient A, during which he removed approximately 1700 cubic centimeters of fat
7 from the patient's back. Respondent's "body sculpture operative report" identified 100 mg
8 Keflex and 9 ml Versed were administered to the patient, but the method of administration was
9 not noted. 5.7 liters of tumescent fluid was injected but the content of the tumescent fluid was
10 also not noted. The patient's records for that date identified preoperative and postoperative vital
11 signs, but did not include any vital signs taken during the procedure.

12 16. Between on or about November 12, 2016, and on or about November 13, 2016,
13 Patient A texted photos of her back to Respondent and informed him that she had a bruise on her
14 back that hurt. Respondent informed Patient A that her body suit was too tight and instructed her
15 to treat the area with Aquaphor.

16 17. On or about November 15, 2016, Patient A presented to Respondent for a post-
17 operative follow-up evaluation. At this visit, Respondent noted the patient had a blister patch on
18 her lower back that he determined did not appear to be full thickness or infected. Respondent
19 instructed the patient to continue treating the area with Aquaphor and to return to the clinic in
20 three days.

21 18. On or about November 17, 2016, Patient A presented to Respondent for a post-
22 operative follow-up evaluation. At this visit, Respondent noted the patient had swelling and open
23 blisters on her back. At the conclusion of this visit, Respondent instructed the patient to continue
24 treating the area with Aquaphor and to return to the clinic in two days.

25 19. On or about November 23, 2016, Patient A presented to Respondent for a post-
26 operative follow-up evaluation. At this visit, Respondent noted the patient had a necrotic patch
27 on her right lower back. At the conclusion of this visit, Respondent instructed the patient to
28 continue treating the area with Aquaphor and informed her that he would get Dr. J.G. involved.

1 A follow-up visit was not recommended or scheduled at that time, and the patient was not seen
2 again by Respondent after this visit.

3 20. On or about November 24, 2016, Patient A presented to the emergency department
4 with complaints of a burn on her back with green discharge. The patient was treated for a wound
5 infection, prescribed antibiotics, and instructed to follow-up with her plastic surgeon:

6 21. Between on or about November 25, 2016, and on or about November 28, 2016,
7 Patient A corresponded with Respondent by text, sending him photos of her wounds and
8 expressing her continued pain and discomfort. On or about November 28, 2016, Respondent
9 referred Patient A to a dermatologist.

10 22. On or about November 28, 2016, Patient A was seen by a dermatologist but was told
11 she needed to be seen by a surgeon. Patient A then located a wound care specialist through her
12 insurance and asked Respondent to provide her with a referral. On that same date, Respondent
13 prepared a referral for the patient to see Dr. L.A.

14 23. On or about December 2, 2016, Patient A presented to Dr. J.G. with complaints of
15 severe pain to her right flank. Dr. J.G. diagnosed Patient A with a full thickness wound and third
16 degree burn with yellow exudate, and referred her to a plastic surgeon at UCLA.

17 24. On or about December 15, 2016, Patient A was seen by A.V., M.D. (Dr. A.V.) at
18 UCLA. Dr. A.V. diagnosed Patient A with a full thickness soft tissue injury of her right mid-
19 lower back.

20 25. On or about December 21, 2016, Dr. A.V. performed wound debridement including
21 subcutaneous fat and wound VAC placement on Patient A.

22 26. On or about January 10, 2017, Dr. A.V. performed split thickness skin grafting to
23 Patient A's right mid-lower back wound.

24 27. Respondent committed gross negligence in his care and treatment of Patient A, which
25 included, but was not limited to, the following:

26 A. Failing to provide appropriate perioperative care, including but not limited to,
27 failing to perform a full physical exam, failing to address the patient's extremely low
28 hemoglobin, failing to discuss and document the risks and benefits of performing surgery

1 on a patient with a significant underlying medical condition, and recommending the patient
2 eat a large breakfast prior to surgery;

3 B. Failing to provide appropriate intraoperative care, including but not limited to,
4 failing to monitor and document vital signs during both procedures, and failing to document
5 the amount of tumescent fluid injected, the content of the tumescent fluid, the positioning of
6 the patient during the procedure, and the incisions used;

7 C. Failing to provide appropriately manage the patient's postoperative
8 complication; and

9 D. Failing to maintain adequate and accurate records.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Repeated Negligent Acts)**

12 28. Respondent has further subjected his Physician's and Surgeon's Certificate No.
13 G 37026 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
14 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
15 treatment of Patient A, as more particularly alleged in paragraphs 8 through 27(D), above, which
16 are hereby incorporated by reference and realleged as if fully set forth herein.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Maintain Adequate and Accurate Records)**

19 29. Respondent has further subjected his Physician's and Surgeon's Certificate No.
20 G 37026 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
21 Code, in that Respondent failed to maintain adequate and accurate records regarding his care and
22 treatment of Patient A, as more particularly alleged in paragraphs 8 through 27(D), above, which
23 are hereby incorporated by reference and realleged as if fully set forth herein.

24 **PRAYER**

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

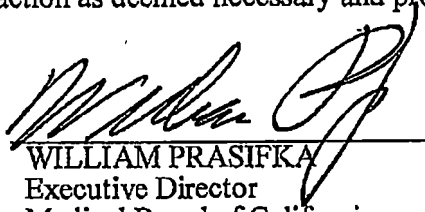
27 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 37026, issued
28 to Respondent, David Reid Milstein, M.D.;

1 2. Revoking, suspending or denying approval of Respondent, David Reid Milstein,
2 M.D.'s authority to supervise physician assistants and advanced practice nurses;

3 3. Ordering Respondent, David Reid Milstein, M.D., to pay the Board the costs of the
4 investigation and enforcement of this case, and if placed on probation, to pay the Board the costs
5 of probation monitoring; and

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

7
8 DATED: **FEB 24 2022**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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