

Howard Krauss, M.D.
Chair, Panel B

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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:
13 **MICHAEL WEILERT, M.D.**
14 **1865 Herndon Ave # K400**
Clovis CA 93611-6163
Physician's and Surgeon's Certificate No. G
38379
15 Respondent.

Case No. 08-2011-219316

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

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

24 2. Respondent Michael Weilert, M.D. ("Respondent") is represented in this proceeding
25 by attorney Lawrence E. Wayte, Esq., whose address is: 7647 North Fresno Street
26 Fresno, CA 93720.

27 3. On or about October 30, 1978, the Medical Board of California issued Physician's and
28 Surgeon's Certificate No. G 38379 to Michael Weilert, M.D. (Respondent). The Physician's and

1 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in
2 Accusation No. 08-2011-219316 and will expire on December 31, 2017, unless renewed.

3 JURISDICTION

4 4. Accusation No. 08-2011-219316 was filed before the Medical Board of California
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 July 23, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 08-2011-219316 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 08-2011-219316. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

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

24 CULPABILITY

25 9. Respondent understands that the charges and allegations in Accusation No. 08-2011-
26 219316, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
27 Surgeon's Certificate.

28 \\\

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges and allegations in the Accusation and that he has thereby subjected his license to disciplinary action. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges and allegations. Respondent agrees that in any future proceeding involving his professional license, all of the charges and allegations contained in Accusation No. 08-2011-219316 shall be deemed true, correct and fully admitted by respondent for purposes of that proceeding or any other licensing proceeding involving respondent in the State of California.

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.

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

11

11

1 practice and billing monitor, the name and qualifications of one or more licensed physicians and
2 surgeons whose licenses are valid and in good standing, and who are preferably American Board
3 of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
4 personal relationship with Respondent, or other relationship that could reasonably be expected to
5 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
6 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
7 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

8 The Board or its designee shall provide the approved monitor with copies of the Decision
9 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the
10 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement
11 that the monitor has read the Decision and Accusation, fully understands the role of a monitor,
12 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the
13 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed
14 statement for approval by the Board or its designee.

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

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

25 The monitor shall submit a quarterly written report to the Board or its designee which
26 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
27 are within the standards of practice of medicine and billing, and whether Respondent is practicing
28 medicine safely and billing appropriately. It shall be the sole responsibility of Respondent to

1 ensure that the monitor submits the quarterly written reports to the Board or its designee within
2 10 calendar days after the end of the preceding quarter.

3 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
4 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
5 name and qualifications of a replacement monitor who will be assuming that responsibility within
6 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
7 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
8 notification from the Board or its designee to cease the practice of medicine within three (3)
9 calendar days after being so notified Respondent shall cease the practice of medicine until a
10 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

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

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

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

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

9 7. GENERAL PROBATION REQUIREMENTS.

10 Compliance with Probation Unit

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

13 Address Changes

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

19 Place of Practice

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

23 License Renewal

24 Respondent shall maintain a current and renewed California physician's and surgeon's
25 license.

26 Travel or Residence Outside California

27 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
28 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty

1 (30) calendar days.

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

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

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

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

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

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

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

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

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

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

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


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1 ACCEPTANCE

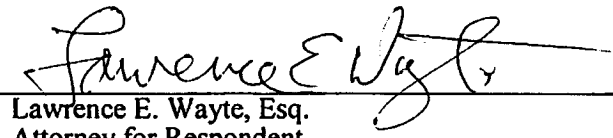
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Lawrence E. Wayte, Esq.. I understand the stipulation and the
4 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
5 Settlement and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

7
8 DATED: 1/11/16


MICHAEL WEILERT, M.D.
Respondent

10 I have read and fully discussed with Respondent Michael Weilert, 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: Jan. 11/2016


Lawrence E. Wayte, Esq.
Attorney for Respondent

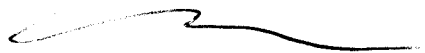
16 ENDORSEMENT

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

19 Dated: 1 / 12 / 16

Respectfully submitted,

20 KAMALA D. HARRIS
Attorney General of California
21 JOSE GUERRERO
Supervising Deputy Attorney General

22
23 
24 STEVE DIEHL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 08-2011-219316

1 KAMALA D. HARRIS
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2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 23, 2014
BY: JYELCHAK ANALYST

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

11 In the Matter of the Accusation Against:

Case No. 08-2011-219316

12 **MICHAEL WEILERT, M.D.**
13 **1865 Herndon Avenue #K400**
Clovis, CA 93611-6163

ACCUSATION

14 **Physician's and Surgeon's Certificate No. G**
15 **38379,**

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs.

23 2. On or about October 30, 1978, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number G 38379 to Michael Weilert, M.D. (Respondent). That Certificate
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 December 31, 2015, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code states:

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

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

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

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

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

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

7 "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
8 review or advisory conferences, professional competency examinations, continuing education
9 activities, and cost reimbursement associated therewith that are agreed to with the board and
10 successfully completed by the licensee, or other matters made confidential or privileged by
11 existing law, is deemed public, and shall be made available to the public by the board pursuant to
12 Section 803.1."

13 6. Section 2234 of the Code, states, in pertinent part:

14 "The board shall take action against any licensee who is charged with unprofessional
15 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
16 limited to, the following:

17 "...

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

20 "...."

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

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Dishonest or Corrupt Act: Fraud in a Real Estate Transaction)

26 8. Respondent is subject to disciplinary action under section 2234, subdivision (e) in
27 that he engaged in dishonest or corrupt act(s) which were substantially related to the
28 qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

1 9. Throughout the 1990s, respondent's wife, whom respondent married in 1991, actively
2 bought, sold, and bred horses. She represented herself to the public as descended from a French
3 aristocratic family which had been breeding horses for a thousand years, as possessing a doctorate
4 in genetics, and as owning ranches and breeding facilities in Colorado and on the East Coast.
5 None of these claims were true. Respondent's wife was, in fact, instrumental in developing the
6 Friesian breed of horse, and she helped to form the International Friesian Show Horse Association
7 ("IFSHA"). She hosted equestrian events, called "keurings", at her home in Clovis, California,
8 which she shared with respondent.

9 10. Beginning in approximately 2000, respondent and his wife began representing to the
10 public that respondent's wife was suffering from leukemia and the effects of chemotherapy. This
11 was false. Respondent and his wife used this story to justify no longer making public
12 appearances at equestrian events. Specifically, in speaking with T. H., a friend of respondent's
13 wife and a fellow board-member of IFSHA, Respondent utilized his status as a physician and
14 knowledge of medical details to make the story believable.

15 11. On or about September 1, 2006, respondent and his wife purchased a 15 acre property
16 in Parlier, California ("the Parlier property.") Respondent and his wife then physically relocated
17 their home and horse breeding facilities from Clovis to the Parlier property.

18 12. During 2007, the market value of the Parlier property decreased substantially, and the
19 horse trading business became substantially less profitable.

20 13. Beginning in or about August 2007, respondent began telling members of IFSHA that
21 his wife was dying. This was false.

22 14. In or about December 2007, respondent falsely informed T. H. that his wife had died
23 on November 30, 2007. Respondent and T. H. collaborated in the preparation of respondent's
24 wife's obituary. Respondent told T. H., and later told Brian Gwartz and Cheryl Skigin, that his
25 wife's estate had designated him as its representative for selling the Parlier property, the proceeds
26 of which would go to a trust for his wife's "orphaned" child. Respondent asked T. H. to help him
27 find someone to purchase the Parlier property, who would appreciate the property's connection
28 with a deceased celebrity of the horse world.

1 15. T. H. then introduced respondent to Brian Gwartz, a nationally-ranked competitor in
2 horse carriage dressage, and his wife, Cheryl Skigin. Gwartz was interested in purchasing the
3 Parlier property as a location to train for competitions in 2008, and to host equestrian events like
4 the ones respondent and his wife had hosted in the 1990s. Gwartz and Skigin did not question
5 why the Parlier property was being sold so soon after being purchased, because they believed that
6 respondent's wife had died. Additionally, Respondent falsely told Gwartz and Skigin he had no
7 flexibility in the asking price of \$2,300,000, because the price had been set by his wife's
8 aristocratic French estate and he was merely acting as the estate's agent.

9 16. During the same time period in 2007 and 2008, respondent induced T. H. and others
10 to take possession of various horses, and sell them without commission or reimbursement for
11 expenses, for the benefit of his wife's "orphaned" child.

12 17. On or about May 9, 2008, escrow closed and Brian Gwartz and Cheryl Skigin
13 purchased the Parlier property. Cheryl Skigin subsequently discovered a legal property document
14 signed by respondent's wife on a date subsequent to her alleged death. Skigin and Gwartz then
15 began civil legal proceedings against respondent and his wife.

16 18. On or about October 25, 2012, in a civil proceeding entitled *Brian L. Gwartz and*
17 *Cheryl A. Skigin, Co-Trustees for the Pendragon Trust, vs. Michael Weilert, et al.*, in Fresno
18 Superior Court Case No. 09CECG01032, a jury verdict was entered finding that respondent made
19 false representation(s) of an important fact or facts to the plaintiffs, in connection with the
20 purchase of the Parlier property. The jury found that respondent knew that his representation was
21 false, that respondent intended that the plaintiffs would rely on his false representation, that the
22 plaintiffs reasonably relied upon the false representation, and that the plaintiff's reasonable
23 reliance on the false representation was a substantial factor in causing damages to the plaintiffs.
24 The jury found damages to the plaintiffs caused by respondent's false representation in the
25 amount of \$700,000. Furthermore, the jury found by clear and convincing evidence that
26 respondent acted with malice, oppression, or fraud in making the false representation.

27 19. In a separate finding in the same civil action, the jury found that respondent failed to
28 disclose an important fact or facts that the plaintiffs did not know and could not reasonably have

1 discovered in connection with the Parlier property. The jury found that respondent intended to
2 deceive the plaintiffs by concealing an important fact or facts, that the plaintiffs reasonably relied
3 on the deception, the deception was a substantial factor in causing harm to the plaintiffs, and that
4 the plaintiffs suffered damages in the amount of \$700,000. Furthermore, the jury found by clear
5 and convincing evidence that respondent acted with malice, oppression, or fraud in his deception
6 of the plaintiffs.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Dishonest or Corrupt Act: False Medical Record)

9 20. Respondent is subject to disciplinary action under section 2234, subdivision (e), in
10 that he engaged in dishonest or corrupt act(s) which were substantially related to the
11 qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

12 21. Beginning on or about September 25, 2008, Respondent began prescribing Xanax¹ to
13 his wife. Respondent's wife had been taking Xanax, 0.25 mg, at a rate of 510 per month, for
14 many years. Respondent feared that his wife's former prescribing physician would abruptly cease
15 prescribing to his wife, and so he assumed her care until a new physician could be found.

16 22. Respondent continued to prescribe to his wife until a new physician assumed her care,
17 in or about January, 2011.

18 23. From on or about October 3, 2008, to on or about May 23, 2010, respondent
19 periodically had laboratory tests performed on his wife. Respondent utilized his position as
20 laboratory director at Community Regional Medical Center in Fresno, California, to direct
21 laboratory technicians to generate laboratory reports using fictional patient biographical data, in
22 order to avoid registering his wife as a patient at the hospital. This procedure allowed respondent
23 to avoid creating a billing record for his wife. At respondent's direction, laboratory technicians
24 would use "test patient" files to populate biographical information in the laboratory report
25 software. These "test patient" files were intended for use in running tests of the laboratory report
26

27 ¹ Xanax (alprazolam) is a short-acting benzodiazepine, indicated for the acute treatment of
28 anxiety states, particularly panic attacks. Benzodiazepines are highly habit forming, and abruptly
ceasing benzodiazepine therapy can cause severe withdrawal symptoms.

1 software, not for generating laboratory reports for real patients. Respondent would then receive
2 these reports, sometimes crossing out the fictitious patient name and handwriting in his wife's
3 name, and maintain them in his medical file for his wife.

4 24. Specifically, respondent had laboratory reports generated as follows:

Date	Fictional Patient Name	Fictional Patient Date of Birth
10/3/08	"Test-Patient-1, Andy I"	5/10/99
11/3/08	"Test-Patient-1, Andy I"	5/10/99
11/25/08	"Test-Patient-1, Andy I"	5/10/99
12/28/08	"Test-Patient-1, Andy I"	10/11/74
1/31/09	"Test, Patient"	8/1/76
3/21/09	"Test-Patient-1, Andy"	10/11/74
5/2/09	"Test, Ruthie R"	11/18/1917
6/13/09	"Test, Patient A"	3/25/68
8/30/09	"Test, Susan T"	2/1/42
5/23/10	"Test-Patient-1, Andy I"	11/2/54

16 THIRD CAUSE FOR DISCIPLINE

17 (Recordkeeping)

18 25. Respondent is subject to disciplinary action under section 2266, in that he failed to
19 keep adequate and accurate records relating to the provision of services to a patient. The
20 circumstances are set forth in paragraphs 21 through 24, above, and are incorporated herein as if
21 fully set forth.

22 PRAYER

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

25 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 38379,
26 issued to Michael Weilert, M.D.;

27 2. Revoking, suspending or denying approval of Michael Weilert, M.D.'s authority to
28 supervise physician's assistants, pursuant to section 3527 of the Code;

1 3. Ordering Michael Weilert, M.D., if placed on probation, to pay the Medical Board of
2 California the costs of probation monitoring; and

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

5 July 23, 2014
6 DATED: _____



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

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