

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

In the Matter of the Accusation)
Against:)
)
)
DAVID MICHAEL ONEIL, M.D.) Case No. 16-2011-218633
)
Physician's and Surgeon's)
Certificate No. A 35210)
)
Respondent)
_____)

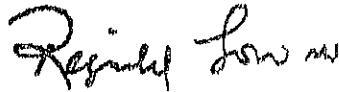
DECISION

The attached Stipulated Settlement 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 23, 2013.

IT IS SO ORDERED: December 24, 2012.

MEDICAL BOARD OF CALIFORNIA



Reginald Low, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON
Deputy Attorney General [State Bar No. 116564]
4 455 Golden Gate Avenue, Suite 11000
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6 *Attorneys for Complainant*
Medical Board of California
7

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

10
11 In the Matter of the Accusation Against:

12 **DAVID MICHAEL ONEIL, M.D.**
13 1420 Santa Rosa Avenue
Santa Barbara, CA 93109
14

15 Physician's and Surgeon's
16 Certificate No. A35210

17 Respondent.

Case No. 16-2011-218633

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPRIMAND

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings as follows:

- 21 1. Linda K. Whitney ("Complainant") brought this action solely
22 in her official capacity as the Executive Director of the Medical Board of California ("Medical
23 Board" or "Board.") Complainant is represented in this matter by Edmund G. Brown Jr.,
24 Attorney General of the State of California, by Jane Zack Simon, Deputy Attorney General.
- 25 2. Respondent David Michael Oneil, M.D. ("Respondent") is representing himself in
26 this proceeding. His current address is 1420 Santa Rosa Avenue, Santa Barbara, CA 93109.
- 27 3. At all times relevant herein, Respondent has been licensed by the Medical Board
28 of California under Physician's and Surgeon's Certificate No. A35210. The certificate is renewed

1 and current with an expiration date of November 30, 2013.

2 4. An Accusation in case number 16-2011-218633 ("Accusation") was filed
3 with the Medical Board of California and is currently pending against Respondent. The
4 Accusation, together with all statutorily required documents, was duly served on Respondent. A
5 copy of the Accusation is attached as "Exhibit A."

6 5. Respondent has carefully read and understands the charges and allegations
7 in the Accusation. Respondent has also carefully read and understands the effects of this
8 Stipulated Settlement and Disciplinary Order for Public Reprimand ("Stipulation".)

9 6. Respondent is fully aware of his legal rights in this matter, including the
10 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
11 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
12 the right to present evidence and to testify on his own behalf; the right to the issuance of
13 subpoenas to compel the attendance of witnesses and the production of documents; the right to
14 reconsideration and court review of an adverse decision; and all other rights accorded by the
15 California Administrative Procedure Act and other applicable laws. Respondent voluntarily,
16 knowingly, and intelligently waives and gives up each and every one of these rights.

17 7. For the purpose of resolving the charges and allegations in
18 Accusation No. 16-2011-218633 without the expense and uncertainty of further proceedings,
19 Respondent agrees that based on the action taken by the Virginia Board of Medicine as set forth
20 in the Accusation, cause exists to discipline his California physician's and surgeon's certificate
21 pursuant to Business and Professions Code sections 2305 and 141.

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

26 9. This Stipulation shall be subject to the approval of the Board. Respondent
27 acknowledges that he shall not be permitted to withdraw from this Stipulation unless it is rejected
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1 by the Board. Respondent understands and agrees that Board staff and counsel for complainant
2 may communicate directly regarding this Stipulation, without notice to or participation by
3 Respondent or his counsel. If the Board fails to adopt this Stipulation as its Order, the Stipulation
4 shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and
5 the Board shall not be disqualified from further action in this matter by virtue of its consideration
6 of this Stipulation.

7 10. The parties agree that facsimile or electronic copies of this Stipulation,
8 including facsimile or electronic signatures on it, shall have the same force and effect as an
9 original.

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

13 **DISCIPLINARY ORDER**

14 **A. PUBLIC REPRIMAND**

15 IT IS HEREBY ORDERED THAT Respondent Mark Warren Cooper, M.D., as
16 holder of Physician's and Surgeon's Certificate No. A35210 shall be and hereby is **publicly**
17 **reprimanded** pursuant to Business and Professions Code section 2227. This Public Reprimand
18 is issued as a result of action undertaken by the Virginia Board of Medicine as follows:

19
20 On September 9, 2011, the Virginia Board of Medicine issued a Consent Order finding
21 that in July 2009, Respondent purchased mifepristone and misoprostol from a Chinese
22 drug distributor that was not registered with the U.S. Food and Drug Administration.
23 Respondent intended to provide the medications to a Mexican family planning clinic.
Respondent was convicted of one misdemeanor count of introduction of misbranded
drugs. Based on these findings, the Virginia Board of Medicine issued a reprimand.

24 **B. EDUCATIONAL COURSE:**

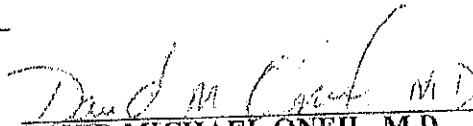
25 Within 60 calendar days of the effective date of this Decision, Respondent shall
26 enroll in a course focusing on drug laws and prescribing practices, at his expense, approved in
27 advance by the Board or its designee. Respondent shall submit a certification of successful
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1 completion to the Board or its designee not later than 15 calendar days after successfully
2 completing the course, or not later than 15 calendar days after the effective date of the Decision,
3 whichever is later. Failure to participate in or successfully complete the education course outlined
4 above shall constitute unprofessional conduct and grounds for further disciplinary action.

5 **ACCEPTANCE**

6 I have read the foregoing Stipulated Settlement and Disciplinary Order for Public
7 Reprimand in its entirety. I fully understand the terms of the Stipulation and their legal
8 significance and the consequences of signing the Stipulated Settlement and Disciplinary Order for
9 Public Reprimand, and that I agree to this Stipulation. I stipulate and agree that a FAX or
10 electronic copy of my signature shall be binding as an original.

11 DATED: 11/6/2012

12 
13 **DAVID MICHAEL ONEIL, M.D.**
14 *Respondent*

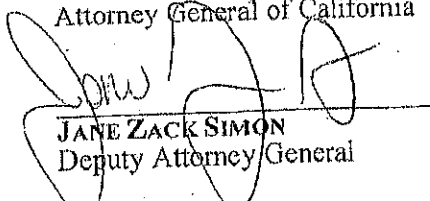
15 **ENDORSEMENT**

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

19
20 Dated: 11/7/2012

Respectfully Submitted,

21 KAMALA D. HARRIS
22 Attorney General of California

23 
24 **JANE ZACK SIMON**
25 Deputy Attorney General

26 *Attorneys for Complainant*

EXHIBIT A

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON
Deputy Attorney General [SBN 116564]
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
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Fax: (415) 703-5480
6 E-mail: Janezack.simon@doj.ca.gov

7 *Attorneys for Complainant*
Medical Board of California

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO, December 29, 2011
BY [Signature] ANALYST

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

12 In the Matter of the Accusation Against:

13 **DAVID MICHAEL ONEIL, M.D.**
14 17 Fontana Lane, Suite 201
15 Baltimore, MD 21237

16 Physician's and Surgeon's
17 Certificate No. A35210

18 Respondent.

Case No. 16-2011-218633

ACCUSATION

19
20 The Complainant alleges:

21 1. Complainant Linda K. Whitney is the Executive Director of the Medical
22 Board of California, Department of Consumer Affairs, and brings this Accusation solely in her
23 official capacity.

24 2. On April 15, 1980, Physician's and Surgeon's Certificate No. A35210
25 was issued by the Medical Board of California to David Michael Oneil, M.D. ("Respondent.")
26 Said certificate is renewed and current with an expiration date of November 30, 2013.

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JURISDICTION

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3 3. This Accusation is brought before the Medical Board of California¹, (the
4 "Board") under the authority of the following sections of the California Business and Professions
5 Code ("Code") and/or other relevant statutory enactment:

6 A. Section 2227 of the Code provides in part that the Board may
7 revoke, suspend for a period not to exceed one year, or place on probation, the license of
8 any licensee who has been found guilty under the Medical Practice Act, and may recover
9 the costs of probation monitoring.

10 B. Section 2305 of the Code provides, in part, that the revocation,
11 suspension, or other discipline, restriction or limitation imposed by another state upon a
12 license to practice medicine issued by that state, that would have been grounds for
13 discipline in California under the Medical Practice Act, constitutes grounds for discipline
14 for unprofessional conduct.

15 C. Section 141 of the Code provides:

16 “(a) For any licensee holding a license issued by a board under
17 the jurisdiction of a department, a disciplinary action taken by another state, by
18 any agency of the federal government, or by another country for any act
19 substantially related to the practice regulated by the California license, may be
20 ground for disciplinary action by the respective state licensing board. A certified
copy of the record of the disciplinary action taken against the licensee by another
state, an agency of the federal government, or by another country shall be
conclusive evidence of the events related therein.

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

24 //

25 //

26 //

27 ¹. The terms "Board" and "Division" or "Division of Medical Quality" mean the
28 Medical Board of California;

1 FIRST CAUSE FOR DISCIPLINE

2 (Discipline, Restriction, or Limitation Imposed by Another State)

3
4 4. On September 9, 2011, the Virginia Board of Medicine issued a Consent
5 Order regarding Respondent's license to practice medicine in Virginia. The Consent Order
6 contained factual findings that in July 2009, Respondent purchased 698 tablets of mifepristone
7 and 1797 tablets of misoprostol from a Chinese drug distributor that was not registered with the
8 U.S. Food and Drug Administration. Respondent intended to provide the mifepristone and
9 misoprostol to a Mexican family planning clinic. Respondent was convicted in the U.S. District
10 Court for the District of Maryland of one count of introduction of misbranded drugs, a
11 misdemeanor, as defined by 21 U.S.C. section 331(a) and 333(a)(1). Based on these findings, the
12 Virginia Board of Medicine issued a reprimand. A copy of the September 9, 2011 Consent Order
13 issued by the Virginia Board of Medicine is attached as Exhibit A.

14 5. Respondent's conduct and the action of the Virginia Board of Medicine
15 as set forth in paragraph 4, above, constitute unprofessional conduct within the meaning of
16 section 2305 and conduct subject to discipline within the meaning of section 141(a).

17 PRAYER

18 **WHEREFORE**, Complainant requests that a hearing be held on the matters
19 herein alleged, and that following the hearing, the Board issue a decision:

- 20 1. Revoking or suspending Physician's and Surgeon's Certificate Number
21 A35210 issued to respondent David Michael Oneil, M.D.;
- 22 2. Revoking, suspending or denying approval of Respondent's authority to
23 supervise physician assistants;
- 24 3. Ordering Respondent, if placed on probation, to pay the costs probation
25 monitoring; and

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4. Taking such other and further action as the Board deems necessary and proper.

DATED: December 29, 2011



LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

Exhibit A

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: DAVID MICHAEL O'NEIL, M.D.
License No.: 0101-244380

CONSENT ORDER

The Virginia Board of Medicine ("Board") and David Michael O'Neil, M.D., as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Dr. O'Neil to practice medicine and surgery in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board adopts the following findings and conclusions in this matter:

1. Dr. O'Neil was issued license number 0101-244380 by the Board to practice medicine in the Commonwealth of Virginia on September 9, 2008. Said license is currently active and will expire on November 30, 2012, unless renewed or otherwise restricted.
2. In or about July 2009, Dr. O'Neil purchased 698 tablets of mifepristone and 1797 tablets of misoprostol from a Chinese drug distributor that was not registered with the U.S. Food and Drug Administration. Dr. O'Neil intended to provide the mifepristone and misoprostol to a Mexican family planning clinic.
3. Dr. O'Neil violated Section 54.1-2915.A(17) of the Code of Virginia (1950), as amended ("Code"), in that by Judgment entered on December 20, 2010, in the United States District Court for the District of Maryland, he pled and was adjudged guilty to one count of introduction of misbranded drugs, a misdemeanor, as defined by 21 U.S.C. §§ 331(a) and 333(a)(1).

4. Dr. O'Neil was sentenced to one (1) year probation, fined One-Thousand Dollars (\$1,000.00) and ordered to perform forty (40) hours of community service.

CONSENT

I, David Michael O'Neil, M.D., by affixing my signature hereto, acknowledge that:

1. I have been advised specifically to seek the advice of counsel prior to signing this document and am represented by Rose Matricciani, Esquire;

2. I am fully aware that without my consent, no legal action can be taken against me, except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq. of the Code of Virginia;

3. I have the following rights, among others:

- a. the right to an informal conference before the Board;
- b. the right to appear in person or by counsel, or other qualified representative before the agency.

4. I waive all rights to an informal conference;

5. I admit the truth of the above Findings of Fact contained herein and agree not to contest the Findings of Fact or Conclusions of Law in any future judicial or administrative proceedings where the Board is a party; and

6. I consent to the following Order affecting my license to practice medicine in the Commonwealth of Virginia.

ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that David Michael O'Neil,

M.D., be and hereby is, issued a REPRIMAND.

Pursuant to Section 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD:

for *William L. Harp, M.D.*
William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

ENTERED: 9/9/11

SEEN AND AGREED TO:

David Michael O'Neil, M.D.
David Michael O'Neil, M.D.

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Fairfax TO WIT:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Virginia, at large, this 30 day of August, 2011, by David Michael O'Neil, M.D.

Jenny Cleric
Notary Public
Registration Number: 7189927
My commission expires: 1-31-2012
Jenny Cleric
Commonwealth of Virginia
REG # 7189927
Comm. Exp. 1/31/2012
NOTARY PUBLIC