

FILED

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

FEB 04 2014

OSTEOPATHIC MEDICAL BOARD  
OF CALIFORNIA

In the Matter of the Amended Accusation  
Against:

JANELLE LYNN MCGOUGH, D.O.  
6531 Pine Crest Circle  
Carmichael, CA 95608

Osteopathic Physician's and Surgeon's  
License No. 20A8562

Respondent

Case No. 07-2011-3055

OAH: 2013080336

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Osteopathic Medical Board of California, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on 2/18/2014.

It is so ORDERED 2/4/2014.



JOSEPH A ZAMMUTO, D.O., PRESIDENT  
FOR THE OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 WENDY WIDLUS  
Deputy Attorney General  
4 State Bar No. 82958  
California Department of Justice  
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Los Angeles, California 90013  
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8 **BEFORE THE**  
**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation  
Against:

12 JANELLE LYNN McGOUGH, D.O.

13 6531 Pine Crest Circle  
14 Carmichael, California 95608

15 Osteopathic Physician's and Surgeon's  
16 Certificate No. 20A8562,

17 Respondent.

Case No. 07-2011-3055

OAH No. 2013080336

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

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

21 **PARTIES**

22 1. Angelina M. Burton (Complainant) is the Executive Director of the Osteopathic  
23 Medical Board of California. She brought this action solely in her official capacity and is  
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
25 Wendy Widlus, Deputy Attorney General.

26 2. Janelle Lynn McGough, D.O. (Respondent) is represented in this proceeding by  
27 attorney Timothy J. Aspinwall whose address is Nossaman LLP, 621 Capitol Mall, 25th Floor,  
28 Sacramento, California 95814.



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**CULPABILITY**

2 8. Respondent understands that the charges and allegations in Amended Accusation No.  
3 07-2011-3055, if proven at a hearing, constitute cause for imposing discipline upon her  
4 Osteopathic Physician's and Surgeon's Certificate.

5 9. For the purpose of resolving the Amended Accusation without the expense and  
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
7 establish a factual basis for the charges in the Amended Accusation and that those charges  
8 constitute cause for discipline. Respondent hereby gives up her right to contest that cause for  
9 discipline exists based on those charges.

10 10. Respondent admits that Complainant could establish a prima facie case with respect  
11 to the charges and allegations contained in the accusation and that she has thereby subjected her  
12 license to discipline.

13 11. The admissions made by Respondent herein are only for the purposes of this  
14 proceeding, or any other proceedings in which the Medical Board of California or other  
15 professional licensing agency is involved, and shall not be admissible in any other civil or  
16 criminal proceeding.

17 12. Respondent understands that by signing this stipulation she enables the Board to issue  
18 an order accepting the surrender of her Osteopathic Physician's and Surgeon's Certificate without  
19 further process.

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**CONTINGENCY**

21 13. This stipulation shall be subject to approval by the Osteopathic Medical Board of  
22 California. Respondent understands and agrees that counsel for Complainant and the staff of the  
23 Osteopathic Medical Board of California may communicate directly with the Board regarding this  
24 stipulation and surrender, without notice to or participation by Respondent or her counsel. By  
25 signing the stipulation, Respondent understands and agrees that she may not withdraw her  
26 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it.  
27 If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and  
28 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible

1 in any legal action between the parties, and the Board shall not be disqualified from further action  
2 by having considered this matter.

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

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

8 **ORDER**

9 **IT IS HEREBY ORDERED** that Osteopathic Physician's and Surgeon's Certificate No.  
10 20A8562, issued to Respondent Janelle Lynn McGough, D.O., is surrendered and accepted by the  
11 Osteopathic Medical Board of California.

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

16 2. Respondent shall lose all rights and privileges as an Osteopathic physician in  
17 California as of the effective date of the Board's Decision and Order.

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

20 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
21 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
22 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
23 effect at the time the petition is filed, and all of the charges and allegations contained in Amended  
24 Accusation No. 07-2011-3055 shall be deemed to be true, correct and admitted by Respondent  
25 when the Board determines whether to grant or deny the petition.

26 5. If Respondent should ever apply or reapply for a new license or certification, or  
27 petition for reinstatement of a license, by any other health care licensing agency in the State of  
28 California, all of the charges and allegations contained in Amended Accusation, No. 07-2011-

1 3055 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any  
2 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

3 6. The parties agree that the total actual investigative and legal costs incurred in his  
4 matter and owed by Respondent are \$23,230.50. Nonetheless, the Board agrees to accept as full  
5 satisfaction of said costs \$11,430 previously paid by Respondent to the Medical Board of  
6 California as a condition of her criminal probation. Therefore, Respondent will not be required to  
7 pay an additional sum prior to issuance of a new or reinstated license.

8 **ACCEPTANCE**

9 I have carefully read the above Stipulated Surrender of License and Order and have fully  
10 discussed it with my attorney, Timothy J. Aspinwall. I understand the stipulation and the effect it  
11 will have on my Osteopathic Physician's and Surgeon's Certificate. I enter into this Stipulated  
12 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound  
13 by the Decision and Order of the Osteopathic Medical Board of California.

14  
15 DATED: 12/10/2013

  
16 JANELLE LYNN MCGOUGH, D.O.  
Respondent

17 I have read and fully discussed with Respondent Janelle Lynn McGough, D.O. the terms  
18 and conditions and other matters contained in this Stipulated Surrender of License and Order. I  
19 approve its form and content.

20 DATED: 12/10/13

  
21 Timothy J. Aspinwall  
22 Attorney for Respondent

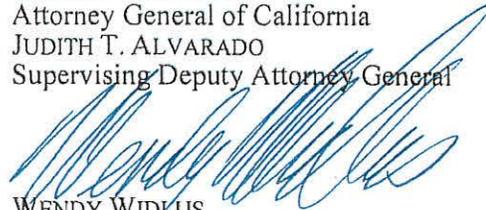
23 **ENDORSEMENT**

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

Dated: 12/11/13

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General



WENDY WIDLUS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Amended Accusation No. 07-2011-3055**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 WENDY WIDLUS  
Deputy Attorney General  
4 State Bar No. 82958  
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7 E-mail: Wendy.Widlus@doj.ca.gov

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OCT 11 2013

**OSTEOPATHIC MEDICAL BOARD  
OF CALIFORNIA**

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9 **BEFORE THE**  
**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
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12 In the Matter of the Accusation Against:

13 JANELLE LYNN MCGOUGH, D.O.

14 6531 Pine Crest Circle  
Carmichael, California 95608

15 Osteopathic Physician's and Surgeon's  
16 Certificate No. 20A8562,

17 Respondent.

Case No. 07-2011-3055

OAH No. 2013080336

**AMENDED ACCUSATION**

18  
19 Complainant alleges:

20 PARTIES

21 1. Angelina M. Burton (Complainant) brings this Accusation solely in her official  
22 capacity as the Executive Director of the Osteopathic Medical Board of California, Department of  
23 Consumer Affairs ("Board").

24 2. On or about July 2, 2003, the Board issued Osteopathic Physician's and Surgeon's  
25 Certificate number 20A8562 to Janelle Lynn McGough, D.O. (Respondent). That license was in  
26 full force and effect at all times relevant to the charges brought herein and will expire on  
27 September 30, 2013, unless renewed. On July 8, 2011, an Interim Suspension Order was issued  
28 pursuant to Government Code section 111529 prohibiting Respondent from practicing medicine.

1 This Amended Accusation supplants and supersedes that original Accusation filed in this matter  
2 on July 19, 2011.

3 JURISDICTION

4 3. This Amended Accusation is brought before the Board under the authority of the  
5 following laws. All section references are to the Business and Professions Code unless otherwise  
6 indicated.

7 4. Section 3600 of the Code states that the law governing licentiates of the Osteopathic  
8 Medical Board of California is found in the Osteopathic Act and in Chapter 5 of Division 2,  
9 relating to medicine.

10 5. Section 118 of the Code states, in pertinent part, that the suspension, expiration, or  
11 forfeiture by operation of law of a license issued by a board in the department, or its suspension,  
12 forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender  
13 without the written consent of the board, shall not, during any period in which it may be renewed,  
14 restored, reissued, or reinstated, deprive the board of its authority to institute or continue a  
15 disciplinary proceeding against the licensee upon any ground provided by law or to enter an order  
16 suspending or revoking the license or otherwise taking disciplinary action against the licensee on  
17 any such ground.

18 6. Section 2234 of the Code states:

19 "The Division of Medical Quality shall take action against any licensee who is charged with  
20 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct  
21 includes, but is not limited to, the following:

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

24 "(b) Gross negligence.

25 "(c) Repeated negligent acts.

26 "(d) Incompetence.

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

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

2           "(g) The practice of medicine from this state into another state or country without meeting  
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
4 apply to this subdivision. This subdivision shall become operative upon the implementation of  
5 the proposed registration program described in Section 2052.5."

6           7. Section 2238 of the Code states that a violation of any federal statute or federal  
7 regulation or any of the statutes or regulations of this state regulating dangerous drugs or  
8 controlled substances constitutes unprofessional conduct.

9           8. Section 2239(a) of the Code states, in part, that the use of, or prescribing for or  
10 administering to herself, any controlled substance constitutes unprofessional conduct.

11           9. Section 11170 of the Health and Safety Code states that, "No person shall prescribe,  
12 administer, or furnish a controlled substance for himself."

13           10. Section 11173(a) of the Health and Safety Code states, in part, that no person shall  
14 obtain controlled substances by (1) fraud, deceit, misrepresentation or subterfuge; or (2)  
15 concealment of any material fact. Subsection (b) provides that no person shall make a false  
16 statement in any prescription.

17           11. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licensee found to have committed a violation or violations of  
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
20 enforcement of the case.

21           12. Section 490 of the Code states:

22           "(a) In addition to any other action that a board is permitted to take against a licensee, a  
23 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
24 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
25 or profession for which the license was issued.

26           "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
27 discipline a licensee for conviction of a crime that is independent of the authority granted under  
28

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
2 of the business or profession for which the licensee's license was issued.

3 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
4 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
5 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
6 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
7 made suspending the imposition of sentence, irrespective of a subsequent order under the  
8 provisions of Section 1203.4 of the Penal Code.

9 13. Section 493 of the Code states:

10 "Notwithstanding any other provision of law, in a proceeding conducted by a board within  
11 the department pursuant to law to deny an application for a license or to suspend or revoke a  
12 license or otherwise take disciplinary action against a person who holds a license, upon the  
13 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
14 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
15 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
16 and the board may inquire into the circumstances surrounding the commission of the crime in  
17 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
18 qualifications, functions, and duties of the licensee in question.

19 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
20 'registration.'"

21 "(d) The Legislature hereby finds and declares that the application of this section has been  
22 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th  
23 554, and that the holding in that case has placed a significant number of statutes and regulations  
24 in question, resulting in potential harm to the consumers of California from licensees who have  
25 been convicted of crimes. Therefore, the Legislature finds and declares that this section  
26 establishes an independent basis for a board to impose discipline upon a licensee, and that the  
27 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not  
28 constitute a change to, but rather are declaratory of, existing law."



1 worked in the emergency room at Mercy San Juan Hospital (hereafter "MSJH") and Sutter  
2 Medical Center (hereinafter "Sutter"). Respondent's contract with MSJH was not renewed in  
3 2009 and Respondent was terminated in 2011 from Sutter based on her continued abuse of  
4 prescription medication.

5 B. Between April 2010 and April 2011, Respondent phoned in or faxed over 40  
6 prescriptions for Ambien and 15 prescriptions for Norco for herself, using the name and DEA  
7 number of her friend and co-worker Kerilee Wenker, M.D. as the prescriber. Dr. Wenker did not  
8 authorize or prescribe any of these prescriptions. Dr. Wenker worked with Respondent at MSJH  
9 and at Sutter and told Respondent on more than one occasion to stop forging prescriptions when  
10 she became aware of Respondent's activities.

11 C. Between April 2010 and April 2011, Respondent issued numerous prescriptions for  
12 Ambien and Norco in the names of her husband, her mother, her father, her stepmother, her  
13 sister-in-law, and others, including S.O. All of these prescriptions were issued by Respondent for  
14 her own use.

15 D. While working at Sutter in 2010 and 2011, Respondent issued prescriptions for  
16 Ambien and Norco for herself, in the name of her husband and her stepmother for Ambien,  
17 Oxycodone, and Norco, using the name and DEA number of her colleague Hilary Crawford,  
18 M.D. Dr. Crawford did not authorize or prescribe any of these medications. Dr. Crawford issued  
19 one prescription to Respondent for Ambien. Respondent altered that prescription by adding an  
20 order for Norco.

21 E. Respondent was interviewed by Board investigators on May 26, 2011. She stated  
22 that she began using Ambien in medical school and developed her initial addiction to the drug.  
23 She became addicted to painkillers (Norco) in 2007 while working at MSJH. She was taking  
24 approximately eight Norco pills a day. She received treatment for her addiction, including an in-  
25 patient stay, in 2008. After in-patient treatment, she stated that her contract was terminated  
26 because she chose not to participate in the monitoring program. A requirement of the program  
27 was a prohibition against taking Ambien. After MSJH, she stated that she took a temporary job in  
28 Arizona before starting work at Sutter in 2010. Respondent further stated that she continued to

1 use Ambien during this entire time. Her primary prescriber was Dr. Wenker. Respondent stated  
2 that she would call in or FAX prescriptions or refills for Ambien and Norco under Dr. Wenker's  
3 name and DEA number. Respondent issued prescriptions for Ambien, Norco, and Oxycodone in  
4 the names of relatives to obtain drugs for herself. She also stated that she filled out prescription  
5 forms under the name and DEA number of another co-worker, Dr. Crawford, to obtain these  
6 drugs as well. She knew what Dr. Crawford's signature looked like and tried to match it. She  
7 stated that prescriptions written under the names of Drs. Wenker, Patel, and Crawford were all  
8 fraudulent.

9 18. Respondent's conduct as set forth in paragraphs 14 A, B, C, D, and E, above,  
10 constitutes unprofessional conduct in violation of Code sections 2234 and 2239(a) and 2238 in  
11 conjunction with Health and Safety Code sections 11170.

12 SECOND CAUSE FOR DISCIPLINE  
13 (Obtaining Controlled Substances by Fraud and Deceit)

14 [Bus. & Prof. Code Sections 2234(e) and 2238 in Conjunction  
15 with Health & Safety Code Sections 11173(a) and (b)]

16 19. Complainant realleges and incorporates by reference paragraphs 14 A, B, C, D,  
17 and E, as if fully set forth herein.

18 20. Respondent is subject to disciplinary action under sections 2234(e) and 2238 in  
19 conjunction with Health and Safety Code sections 11173(a) and (b) in that she procured  
20 controlled substances for her own use by issuing prescriptions which were false and fictitious by  
21 writing the prescriptions in the names of other persons, forging prescriptions by issuing them in  
22 the names of co-workers and colleagues, and altering prescriptions. Respondent presented these  
23 prescriptions at more than 12 pharmacies in order to avoid detection.

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2. Ordering her to pay the Osteopathic Medical Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. If placed on probation, ordering her to pay the Osteopathic Medical Board of California the costs of probation monitoring;
4. Taking such other and further action as deemed necessary and proper.

DATED: <sup>October</sup> ~~September~~ 11, 2013  
*AM*

  
ANGELINA M. BURTON  
Executive Director  
Osteopathic Medical Board of California  
Department of Consumer Affairs  
State of California

*Complainant*

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