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

In the Matter of the Accusation
Against:

CHARLES ELDON KOFTAN, M.D.
Physician's and Surgeon's
Certificate No. G 71434
Respondent

Case No. 02-2013-231980

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 December 10, 2014.

IT IS SO ORDERED November 10, 2014

MEDICAL BOARD OF CALIFORNIA

By: Jamie Wright, J.D., Chair
Panel A
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:  

CHARLES ELDON KOFTAN, M.D.  
799 E. Hampden Ave., #300  
Englewood, CO 80113  

Physician's and Surgeon's Certificate No. G 71434,

Respondent.

Case No. 02-2013-231980  

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

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

PARTIES

1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Megan R. O'Carroll, Deputy Attorney General.

2. Respondent Charles Eldon Koftan, M.D. ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.
3. On or about May 28, 1991, the Medical Board of California issued Physician's and Surgeon's Certificate No. G 71434 to Charles Eldon Koftan, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 02-2013-231980 and will expire on April 30, 2015, unless renewed.

JURISDICTION

4. Accusation No. 02-2013-231980 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 23, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 02-2013-231980 is attached as Exhibit A and incorporated herein by reference.

ADVICEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 02-2013-231980. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 02-2013-231980.
10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

**CONTINGENCY**

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. 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.

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

**DISCIPLINARY ORDER**

**A. PUBLIC REPRIMAND**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 71434 issued to Respondent Charles Eldon Koftan, M.D. (Respondent), is Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with the allegations as set forth in Accusation No. 02-2013-231980, is as follows:

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On or About April 12, 2012, Respondent pled guilty in the case entitled People of the State of Colorado v. Charles Koftan, Colorado County of Adams Case No.12T829, to Count One, as amended, admitting that he had driven under the influence of alcohol with a blood alcohol content at or greater than 0.20%. Count Two was dismissed. Respondent was sentenced to 30 days of electronic monitoring, placed on probation for 12 months, required to complete 48 hours of work service, participate in alcohol monitoring and treatment, and pay a fine.

Respondent failed to report his criminal conviction in the case entitled People of the State of Colorado v. Charles Koftan, Colorado County of Adams Case NO. 12T829, to the Medical Board of California, in writing and within thirty (30) days of his conviction, as required by Business and Professions Code section 802.1.

Respondent’s conduct is in violation of Business and Professions Code sections 2234, 2236, and 2239.

B. PAYMENT OF FINE

Respondent will pay a fine in the amount of twenty-five hundred dollars ($2,500.00) to the Medical Board of California for the violation of Business and Professions Code section 802.1, subdivision (a)(1)(B) described above. Full payment of this fine shall be made by Respondent to the Board within thirty (30) business days of the execution of this Stipulation. Payment of the fine shall be made to:

Medical Board of California
P.O. Box 15588
Sacramento, CA 95852
Attn: Valerie Moore, Enforcement Manager
ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 10/16/14  

CHARLES ELDON KOFTAN, M.D.  
Respondent

ENDORSEMENT

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

Dated: October 15, 2014  

Respectfully submitted,

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

MEGAN R. O'CARROLL  
Deputy Attorney General  
Attorneys for Complainant

SA2014312273  
Stipulation.rtf
Exhibit A

Accusation No. 02-2013-231980
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:
CHARLES ELDON KOFTAN, M.D.
799 E. Hampden Ave., #300
Englewood, CO 80113

Physician's and Surgeon's Certificate No. G 71434
Respondent.

Case No. 02-2013-231980

ACCUSATION

Complainant alleges:

PARTIES

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

2. On or about May 28, 1991, the Medical Board of California issued Physician's and
Surgeon's Certificate Number G 71434 to Charles Eldon Koftan, M.D. (Respondent). The
Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
charges and allegations brought herein and will expire on April 30, 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 (Code), unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or have such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, provides, in pertinent part, that:

"The board shall take action against any licensee who is charged with unprofessional conduct.\(^1\) In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

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

"…” (Footnote added.)

6. Section 2236 of the Code states:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee.\(^2\) The

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1 Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (Shea v. Board of Medical Examiners (1978) 81 Cal.App.3d 564, 575.)

2 Section 2002 of the Code establishes that the Division of Medical Quality shall be deemed to refer to the Board.
notice shall identify the licensee and describe the crimes charged and the facts alleged. The
prosecuting agency shall also notify the clerk of the court in which the action is pending that the
defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
a license as a physician and surgeon.

“(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
after the conviction, transmit a certified copy of the record of conviction to the board. The
division may inquire into the circumstances surrounding the commission of a crime in order to fix
the degree of discipline or to determine if the conviction is of an offense substantially related to
the qualifications, functions, or duties of a physician and surgeon.

“(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
be a conviction within the meaning of this section and Section 2236.1. The record of conviction
shall be conclusive evidence of the fact that the conviction occurred.”

7. Section 2239 of the Code states:

“(a) The use or prescribing for or administering to himself or herself, of any controlled
substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
any other person or to the public, or to the extent that such use impairs the ability of the licensee
to practice medicine safely or more than one misdemeanor or any felony involving the use,
consumption, or self-administration of any of the substances referred to in this section, or any
combination thereof, constitutes unprofessional conduct. The record of the conviction is
conclusive evidence of such unprofessional conduct.

“(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
deemed to be a conviction within the meaning of this section. The Division of Medical Quality
may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing
may order the denial of the license when the time for appeal has elapsed or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made suspending
imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4
of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of
not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

8. California Code of Regulations, title 16, section 1360, states:
   "For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of Physician and Surgeon)

9. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, and California Code of Regulations, title 16, section 1360, in that he has been convicted of a crime, to wit: violation of Colorado Revised Statutes section 42-4-301(a) [driving under the influence of alcohol with a BAC of .20% or greater], substantially related to the qualifications, functions or duties of a physician and surgeon, as more particularly alleged hereinafter:

10. Respondent is a physician and surgeon licensed to practice in California, Florida, and Colorado. He is Board certified in Internal Medicine, and is employed by Provident Medical Group in Denver, Colorado, providing inpatient and outpatient internal medical services.

11. On or about January 6, 2012, at approximately 11:20 p.m., the Thornton Police Department in Thornton, Colorado, received a call of a possible impaired driver. Officers reported to the location and observed Respondent driving a gray Jeep Cherokee, weaving in and out of the lane, and traveling at approximately 15 miles per hour.
12. Officers conducted a traffic stop on Respondent, and immediately noticed that Respondent had blood shot, watery eyes, and a strong odor of alcohol about him. When an Officer asked Respondent how much he had to drink, Respondent responded, “enough.” He had difficulty removing his driver’s license from his wallet and, when asked to exit the vehicle, stumbled and could not stand on his own. Officers attempted to conduct field sobriety test on Respondent, but he could not maintain his balance without falling to the ground or stumbling towards traffic.

13. Officers assisted Respondent to a police vehicle, and escorted him to the hospital for a blood draw. The blood analysis showed that Respondent’s blood alcohol content was 0.237.

14. In the case entitled People of the State of Colorado v. Charles Koftan, Colorado County of Adams, Case No.12T829, Respondent was charged in Count One with a violation of Colorado Revised Statutes section 42-4-1301(a), Driving Under the Influence of Alcohol, and in Court Two with a violation of Colorado Revised Statutes section 14-04-1402(1), Careless Driving, both misdemeanors. The District Attorney of Adams County subsequently amended Count One to include the circumstances that Respondent had violated Statutes section 42-4-1307(b), in that he drove with a blood alcohol content of 0.20% or greater.

15. On or About April 12, 2012, Respondent pled guilty in the case entitled People of the State of Colorado v. Charles Koftan, Colorado County of Adams Case No.12T829, to Count One, as amended, admitting that he had driven under the influence of alcohol with a blood alcohol content at or greater than 0.20%. Count Two was dismissed. Respondent was sentenced to 30 days of electronic monitoring, placed on probation for 12 months, required to complete 48 hours of work services, participate in alcohol monitoring and treatment, and pay a fine.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcohol in a Dangerous or Injurious Manner)

16. Respondent is further subject to disciplinary action under section 2227 and 2234, as defined in section 2239, of Code, and California Code of Regulations, title 16, section 1360, in that he has used alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to himself, to any other person or to the public, as more particularly alleged in paragraph
9 through 15 above, which is hereby incorporated by reference and realleged as if fully set forth herein.

17. On or about February 11, 2014, Respondent was interviewed by a Medical Board Investigator. During the interview, Respondent stated that, on the day of his arrest for DUI, he went to a public establishment to play in a poker tournament. During the tournament, he “drank too many glasses of wine,” and then drank a cognac which put him “way over.” Respondent estimated that between 6:15 p.m. and 11:15 p.m., he drank approximately eight glasses of wine and one cognac.

18. Respondent further stated that, at approximately 11:15 p.m. that evening, he left the poker tournament and began driving to another establishment with the intention to play poker there. During his interview, Respondent acknowledges that as he was driving, he was sensing that he was “way to high.”

19. Respondent failed to report his criminal conviction in the case entitled People of the State of Colorado v. Charles Kofian, Colorado County of Adams Case NO. 12T829, to the Medical Board of California, in writing and within thirty (30) days of his conviction, as required by Business and Professions Code section 802.1.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

20. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraph 9 through 19 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Violation of the State medical Practice Act)

21. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (a), of the Code, and California Code of Regulations, title
16, section 1360, in that he has violated a provision or provisions of the Medical Practice Act, as
more particularly alleged in paragraph 9 through 19, above, which are hereby incorporated by
reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 71434,
   issued to Respondent Charles Eldon Koftan, M.D.;

2. Revoking, suspending or denying approval of Respondent Charles Eldon Koftan,
   M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Respondent Charles Eldon Koftan, M.D. to pay the Medical Board of
   California the costs of probation monitoring, if placed on probation; and

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

DATED: April 23, 2014

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