On its own motion, the Medical Board of California (hereafter “board”) finds that there is a clerical error in the “effective date of decision and ordered date of decision” portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the effective date and the ordered date of the decision will conform to the Board’s decision.

IT IS HEREBY ORDERED that the effective date of decision and ordered date of decision contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as “This decision shall become effective at 5:00 p.m. on June 17, 2016. It is so ordered May 20, 2016”.

May 24, 2016

Jamie Wright, Esq., Chair
Panel A
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:
Nathan Hale Allen, M.D.
Physician's and Surgeon's
Certificate No. G 37098
Respondent

Case No. 02-2013-234711

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 20, 2016.

IT IS SO ORDERED June 17, 2016.

MEDICAL BOARD OF CALIFORNIA

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

In the Matter of the Accusation Against:

NATHAN HALE ALLEN, M.D.
7237 E. Southgate Dr., Ste. C
Sacramento, CA 95823

Physician's and Surgeon's certificate No. G37098
Respondent.

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, Department of Consumer Affairs ("Board"). 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 John S. Gatschet, Deputy Attorney General.

2. Respondent Nathan Hale Allen, M.D. ("Respondent") is represented in this proceeding by attorney Anthony D. Lauria of Lauria, Tokunaga, Gates & Linn, L.L.P., whose address is: 1755 Creekside Oaks Drive, Suite 240, Sacramento, CA 95833

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3. On or about July 1, 1978, the Board issued Physician’s and Surgeon’s certificate No. G37098 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 02-2013-234711 and will expire on January 31, 2018, unless renewed.

JURISDICTION

4. Accusation No. 02-2013-234711 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 3, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 02-2013-234711 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 02-2013-234711. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the 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.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 02-2013-234711, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's certificate.

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 in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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 PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. 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 Respondent’s Physician’s and Surgeon’s certificate No. G37098, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent’s care and treatment of patient M.G. as set forth in Accusation No. 02-2013-234711, is as follows:

"On December 17, 2007, a Pap smear was performed on M.G. On December 28, 2007, the results showed a high grade squamous intraepithelial lesion. On January 11, 2008, you performed a colposcopy and biopsy on M.G. On January 14, 2008, the biopsy was reported out by pathology as, ‘squamous epithelium consistent with at least carcinoma-in-situ. The possibility of microinvasion cannot be entirely excluded.’ You failed to provide care and treatment in accordance with the standard of practice in the medical community by failing to follow-up on the patient’s severely abnormal cervical biopsy which directly led to a delay in treatment for cervical cancer, as more fully described in Accusation No. 02-2013-234711."

B. MEDICAL RECORD KEEPING COURSE

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent’s initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent’s expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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

Respondent shall submit a certification of successful completion to the Board or its
designee not later than 15 calendar days after successfully completing the course, or not later than
15 calendar days after the effective date of the Decision, whichever is later. Failure to
successfully complete the course within six (6) months of Respondent’s initial enrollment shall
constitute unprofessional conduct and grounds for further disciplinary action.
ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Anthony D. Lauria, Esq.. 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: 4/8/16

NATHAN HALE ALLEN, M.D.
Respondent

I have read and fully discussed with Respondent Nathan Hale Allen, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4/8/16

Anthony D. Lauria, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: 4/8/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

JOHN S. GATSCHE
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation No. 02-2013-234711
In the Matter of the Accusation Against:

NATHAN H. ALLEN, M.D.
7237 E. Southgate Drive, Suite C
Sacramento, CA 95823

Physician's and Surgeon's Certificate No. G37098

Respondent.

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 July 1, 1978, the Medical Board of California issued Physician's and Surgeon's Certificate Number G37098 to Nathan H. Hale, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2016, unless renewed.
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, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states:

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

(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.

(b) Gross negligence.

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

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

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

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.
"(f) Any action or conduct which would have warranted the denial of a certificate.

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

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview scheduled by the mutual agreement of the certificate holder and the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

**CAUSE FOR DISCIPLINE**
(Gross Negligence)
[Bus. & Prof. Code, § 2234, subdiv. (b)]

6. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he was grossly negligent in the care and treatment of a patient. The circumstances are as follows:

7. Performing a Pap smear to screen for cancerous or pre-cancerous conditions of the cervix is a standard part of a first pre-natal visit at the start of a pregnancy. If the Pap smear is abnormal, then a biopsy of the cervix is performed to define the abnormality and rule out the presence of invasive cancer. If invasive cancer cannot be ruled out, the patient requires a larger excision procedure of the cervix to obtain more tissue to examine, and/or a referral to a gynecologic oncologist to manage that problem. If there is only pre-invasive disease, then definitive treatment can be delayed until the pregnancy is completed. The patient would then either undergo a larger excision procedure of the cervix, or potential hysterectomy if the pre-cancerous lesion is advanced and the patient has completed her child-bearing. It is for this reason that it is also the standard of care to perform a Pap smear at the routine post-partum visit, and to check to be sure that any patient about to undergo a sterilizing procedure has a recent Pap smear.

8. On or about December 17, 2007, Patient M.G. began prenatal care in Respondent’s office. She underwent a Pap smear that day. The report of the results came out on December 28, 2007, showing a high grade squamous intraepithelial lesion. This result is noted in the record on
the patient’s next visit on January 6, 2008, and was presumably communicated to her as a
colposcopy was scheduled for January 11, 2008.

9. On or about January 11, 2008, the colposcopy was performed by Respondent. He
described white epithelium at the squamo-columnar junction. He performed a biopsy, which was
reported out on January 14, 2008, as, “... squamous epithelium consistent with at least
carcinoma-in-situ. The possibility of microinvasion cannot be entirely excluded.” There is no
further mention of this result in the prenatal record, although Respondent was aware of it because
insurance authorization for cervical excision was requested on January 16, 2008, and approved
the same day. Respondent saw the patient on January 16, 2008, and the only notation in the
prenatal record is “doing well.”

10. Respondent saw the patient for at least four more prenatal visits after January 16,
2008. He saw her for a post-partum visit on August 5, 2008. There is no record of a physical
examination on that date, or of a repeat Pap smear being done. There is no mention at all of the
patient’s cervical pathology in any of those visits.

11. On or about September 10, 2008, Respondent next saw the patient for a pre-operative
visit prior to a tubal ligation. “Abnormal Pap smear” is listed as an active problem in the record
of that visit; yet the problem was unaddressed. The next visit was on or about January 6, 2011.
On the record of this visit the active problem list no longer mentions the abnormal Pap smear.
Instead, the diagnostic history specifically says “no abnormal Pap smear.” The physical
examination at that visit includes no description of the appearance of the cervix. The patient then
developed irregular vaginal bleeding later that year. Later in 2011, she saw another physician
who biopsied her cervix and diagnosed cervical cancer at an advanced stage.

12. Respondent engaged in an extreme departure from the standard of care in that, despite
having multiple opportunities to realize and correct his error, he failed to appropriately follow-up
the patient’s severely abnormal cervical biopsy during and after her pregnancy.
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 G37098, issued to Nathan H. Allen, M.D.;

2. Revoking, suspending or denying approval of Nathan H. Allen, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Nathan H. Allen, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and

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

DATED: December 3, 2014

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