

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

<b>In the Matter of the Petition to Revoke</b>	)	
<b>Probation Against:</b>	)	
	)	
<b>MICHAEL JAY GOLDBERG, M.D.</b>	)	<b>Case No. 8002015011295</b>
	)	
<b>Physician's and Surgeon's</b>	)	
<b>Certificate No. A 25404</b>	)	
	)	
<b>Respondent.</b>	)	
_____	)	

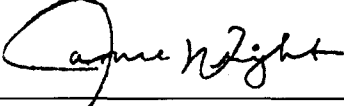
**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on February 9, 2017.

IT IS SO ORDERED January 10, 2017.

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Jamie Wright, J.D., Chair**  
**Panel A**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 State Bar No. 155307  
California Department of Justice  
4 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
5 Telephone: (213) 576-7149  
Facsimile: (213) 897-9395  
6 *Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke  
11 Probation Against:

12 **MICHAEL JAY GOLDBERG, M.D.**  
13 **5620 Wilbur Avenue, # 318**  
**Tarzana, CA 91356**

14 **Physician's and Surgeon's Certificate**  
15 **No. A 25404**

16 Respondent.

Case No. 800-2015-011295

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

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

20 PARTIES

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

25 2. Respondent MICHAEL JAY GOLDBERG, M.D. ("Respondent") is represented in  
26 this proceeding by attorney Peter Osinoff, Esq., whose address is: 3699 Wilshire Blvd., 10th  
27 Floor, Los Angeles, CA 90010.

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1 CULPABILITY

2 9. Respondent does not contest that at an administrative hearing, Complainant could set  
3 forth a *prima facie* case for the charges and allegations in Petition to Revoke Probation No. 800-  
4 2015-011295, and that he has thereby subjected his Physician and Surgeon's Certificate number A  
5 25404 to disciplinary action.

6 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
7 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
8 Disciplinary Order below.

9 CIRCUMSTANCES IN MITIGATION

10 11. Respondent has voluntarily limited his practice to the field of  
11 alternative/complementary treatment methods for medical conditions, which may be contributing  
12 to Autism Spectrum Disorder problems and behaviors. In response to a Petition for an Interim  
13 Suspension Order it was found by the presiding ALJ that Respondent met the criteria of Business  
14 and Professions Code section 2234.1, that his treatment did not cause delay in or discourage  
15 traditional diagnosis of the patient's condition, or cause death or serious bodily injury to the  
16 patient, and that the treatment provides a reasonable potential for therapeutic gain in a patient's  
17 medical condition that is not outweighed by the risk.

18 RESERVATION

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

23 CONTINGENCY

24 13. This stipulation shall be subject to approval by the Medical Board of California.  
25 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
26 Board of California may communicate directly with the Board regarding this stipulation and  
27 settlement, without notice to or participation by Respondent or his counsel. By signing the  
28 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek

1 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
2 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
3 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
4 action between the parties, and the Board shall not be disqualified from further action by having  
5 considered this matter.

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

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

12 **DISCIPLINARY ORDER**

13 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 25404 issued  
14 to Respondent Michael Jay Goldberg, M.D. is revoked. However, the revocation is stayed and  
15 Respondent is placed on probation for one (1) year on the following terms and conditions. This  
16 term of probation shall run consecutive to the probation term in case number 05-2010-206960.

17 1. WRITTEN INFORMED CONSENT FOR ALL NEW PATIENTS. After the  
18 effective date of this Decision, all new patients being treated by the Respondent shall be notified  
19 by the Respondent, the terms of which shall be approved by the Board or its designee, that the  
20 Respondent is not the patient's primary care physician or pediatrician and that the patient shall  
21 have a concurrent primary care physician (pediatrician, internist, family practitioner, etc.).

22 Respondent shall maintain a log of all patients to whom the required written notification  
23 was made. The log shall contain the following: 1) patient's name, address and phone number;  
24 patient's medical record number, if available; 2) the date the notification was made; and 3) a copy  
25 of the written informed consent given. Respondent shall keep this log in a separate file or ledger,  
26 in chronological order, shall make the log available for immediate inspection and copying on the  
27 premises at all times during business hours by the Board or its designee, and shall retain the log  
28 for the entire term of probation. Respondent shall advise all new patients that if they wish to have

1 Respondent provide regular updates of their progress to their primary care physicians, they should  
2 so advise the Respondent so such updates will be provided.

3 2. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
4 Respondent shall provide a true copy of this Decision and Petition to Revoke Probation to the  
5 Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership  
6 are extended to Respondent, at any other facility where Respondent engages in the practice of  
7 medicine, including all physician and locum tenens registries or other similar agencies, and to the  
8 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage  
9 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within  
10 15 calendar days.

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

12 3. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
13 prohibited from supervising physician assistants.

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

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

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

22 6. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

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

26 Address Changes

27 Respondent shall, at all times, keep the Board informed of Respondent's business and  
28 residence addresses, email address (if available), and telephone number. Changes of such

1 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
2 circumstances shall a post office box serve as an address of record, except as allowed by Business  
3 and Professions Code section 2021(b).

4 Place of Practice

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

8 License Renewal

9 Respondent shall maintain a current and renewed California physician's and surgeon's  
10 license.

11 Travel or Residence Outside California

12 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
13 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
14 (30) calendar days.

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

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

21 8. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
22 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
23 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
24 defined as any period of time Respondent is not practicing medicine in California as defined in  
25 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
26 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
27 time spent in an intensive training program which has been approved by the Board or its designee  
28 shall not be considered non-practice. Practicing medicine in another state of the United States or

1 Federal jurisdiction while on probation with the medical licensing authority of that state or  
2 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
3 not be considered as a period of non-practice.

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

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

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

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

13 9. COMPLETION OF PROBATION. Respondent shall comply with all financial  
14 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
15 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
16 be fully restored.

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

24 11. LICENSE SURRENDER. Following the effective date of this Decision, if  
25 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
26 the terms and conditions of probation, Respondent may request to surrender his or her license.  
27 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
28 determining whether or not to grant the request, or to take any other action deemed appropriate

1 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
2 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
3 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
4 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
5 application shall be treated as a petition for reinstatement of a revoked certificate.

6 12. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
7 with probation monitoring each and every year of probation, as designated by the Board, which  
8 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
9 California and delivered to the Board or its designee no later than January 31 of each calendar  
10 year.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
13 discussed it with my attorney, Peter Osinoff, Esq. I understand the stipulation and the effect it  
14 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
15 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
16 Decision and Order of the Medical Board of California.

17  
18 DATED: 10/27/16

  
MICHAEL JAY GOLDBERG, M.D.  
Respondent

19  
20 I have read and fully discussed with Respondent MICHAEL JAY GOLDBERG, M.D. the  
21 terms and conditions and other matters contained in the above Stipulated Settlement and  
22 Disciplinary Order. I approve its form and content.

23 DATED: 10/27/16

  
PETER OSINOFF, ESQ.  
Attorney for Respondent

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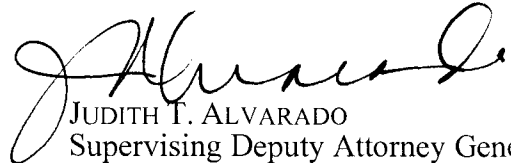
ENDORSEMENT

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

Dated: *10/27/2016*

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California



JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Petition to Revoke Probation No. 800-2015-011295**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 State Bar No. 155307  
California Department of Justice  
4 300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
5 Telephone: (213) 576-7149  
Facsimile: (213) 897-9395  
6 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO August 20 20 15  
BY H. Voong ANALYST

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke  
Probation Against:

Case No. 800-2015-011295

11 **MICHAEL JAY GOLDBERG, M.D.**  
12 **5620 Wilbur Ave., Ste. #318**  
**Tarzana, CA 91356-1351**  
13 **Physician's and Surgeon's Certificate**  
**No. A 25404,**

**PETITION TO REVOKE PROBATION**

14 Respondent.

15  
16  
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about July 10, 1973, the Medical Board of California issued Physician's and  
23 Surgeon's Certificate Number A 25404 to Michael Jay Goldberg, M.D. (Respondent). The  
24 Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought  
25 herein and will expire on August 31, 2016, unless renewed.

26 3. In a disciplinary action entitled *In the Matter of the First Amended Accusation*  
27 *Against Michael Jay Goldberg, M.D.*, Case No. 05-2010-206960, the Board, issued a decision,  
28 effective February 14, 2014, in which Respondent's Physician's and Surgeon's Certificate was

1 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's  
2 Certificate was placed on probation for a period of three (3) years with certain terms and  
3 conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated by  
4 reference.

5 4. On January 22, 2015, due to Respondent's failure to comply with Condition No. 2 of  
6 the Disciplinary Order in Case No. 05-2010-206960, a Cease Practice Order was issued  
7 prohibiting Respondent from engaging in the practice of medicine. A stay of the Cease Practice  
8 Order was granted by the Los Angeles Superior Court on January 30, 2015; the stay request was  
9 brought in concurrence with a Petition for Writ of Mandate, LASC case no. BS153424. On May  
10 5, 2015, the Petition for Writ of Mandate was dismissed by the Los Angeles Superior Court upon  
11 receipt of a Request for Dismissal by Respondent. Accordingly, the stay on the Cease Practice  
12 Order was dissolved by operation of law. The Cease Practice Order was re-issued on May 14,  
13 2015 and dissolved by operation of law on June 1, 2015.

#### 14 JURISDICTION

15 5. This Petition to Revoke Probation is brought before the Board under the authority of  
16 the Board's Decision and Order in Case No. 05-2010-206960, which provides in pertinent part as  
17 follows:

18 "IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 25404,  
19 issued to Respondent Michael Jay Goldberg, M.D. (Respondent) is revoked. However, the  
20 revocation is stayed and Respondent is placed on probation for three (3) years on the following  
21 terms and conditions.

22 "....

23 "2. CLINICAL EDUCATION PROGRAM Within 60 calendar days of the effective date  
24 of this Decision, Respondent shall enroll in a clinical training or educational program equivalent  
25 to the Physician Assessment and Clinical Education Program (PACE) offered at the University of  
26 California - San Diego School of Medicine ("Program"). Respondent shall successfully complete  
27 the Program not later than six (6) months after Respondent's initial enrollment unless the Board  
28 or its designee agrees in writing to an extension of that time.

1           The Program shall consist of a Comprehensive Assessment program comprised of a two-  
2 day assessment of Respondent's physical and mental health; basic clinical and communication  
3 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to  
4 Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum,  
5 a 40 hour program of clinical education in the area of practice in which Respondent was alleged  
6 to be deficient and which takes into account data obtained from the assessment, Decision(s),  
7 Accusation(s), and any other information that the Board or its designee deems relevant.  
8 Respondent shall pay all expenses associated with the clinical training program.

9           Based on Respondent's performance and test results in the assessment and clinical  
10 education, the Program will advise the Board or its designee of its recommendation(s) for the  
11 scope and length of any additional educational or clinical training, treatment for any medical  
12 condition, treatment for any psychological condition, or anything else affecting Respondent's  
13 practice of medicine. Respondent shall comply with Program recommendations.

14           At the completion of any additional educational or clinical training, Respondent shall  
15 submit to and pass an examination. Determination as to whether Respondent successfully  
16 completed the examination or successfully completed the program is solely within the program's  
17 jurisdiction.

18           If Respondent fails to enroll, participate in, or successfully complete the clinical training  
19 program within the designated time period, Respondent shall receive a notification from the  
20 Board or its designee to cease the practice of medicine within three (3) calendar days after being  
21 so notified. The Respondent shall not resume the practice of medicine until enrollment or  
22 participation in the outstanding portions of the clinical training program have been completed. If  
23 the Respondent did not successfully complete the clinical training program, the Respondent shall  
24 not resume the practice of medicine until a final decision has been rendered on the accusation  
25 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of  
26 the probationary time period."

27           "....

28       ///



1 not resume the practice of medicine until a final decision has been rendered on the accusation  
2 and/or a petition to revoke probation. ...”

3 7. Respondent’s probation is subject to revocation because he failed to comply with  
4 Condition No. 2, referenced above. The facts and circumstances regarding this violation are as  
5 follows:

6 a. Respondent participated in Phase I of the PACE Program on or about June 16-17,  
7 2014. Overall, Respondent’s performance on the Phase I, two-day assessment was unsatisfactory.  
8 For example, his performance on the clinical vignettes presented to him during the pediatric  
9 neurology oral exam fell below standard expectations. In each case he failed to discuss the  
10 differential diagnosis and was unable to articulate the risks associated with the polypharmacy of  
11 medications he routinely orders. He scored in the 49<sup>th</sup> percentile on the Pediatrics Clinical  
12 Science Subject exam and the 1<sup>st</sup> percentile on the Neurology Clinical Science Subject exam.  
13 Respondent’s knowledge of pediatric neurology and pediatric neuro-developmental disorders was  
14 found to be very limited. The PACE Program had concerns with Respondent’s lack of training  
15 within his area of practice.

16 b. Respondent returned for Phase II on or about August 20-21 and September 30  
17 through October 2, 2014. Phase II is a five-day clinical education and assessment program  
18 provided in the actual clinical environment of the UC San Diego Medical Center or one of its  
19 satellite clinics. It is both a formative and summative assessment of the participant’s clinical  
20 skills, knowledge, and judgment. Overall, Respondent’s performance during Phase II was  
21 unsatisfactory. For example, during discussions of pediatric neurology cases Respondent  
22 consistently recommended tests and treatments that were neither evidence-based nor  
23 recommended in the medical literature. His assessment of each case observed in clinic was that  
24 the child was suffering from neuro-immune dysfunction and that he would treat them all in a  
25 similar fashion. It was found that Respondent’s general knowledge of pediatrics was  
26 questionable. In sum, the PACE Program had serious concerns with Respondent’s ability to  
27 safely practice medicine.

28 ///

1 c. Respondent's overall performance on the Program's comprehensive, seven-day  
2 physician assessment is consistent with a fail.

3 8. As set forth above, due to Respondent's failure to comply with Condition No. 2 of the  
4 Disciplinary Order, a Cease Practice Order was issued prohibiting Respondent from engaging in  
5 the practice of medicine.

6 **PRAYER**

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

9 1. Revoking the probation that was granted by the Board in Case No. 05-2010-206960  
10 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's  
11 Certificate No. A 25404 issued to Michael Jay Goldberg, M.D.;

12 2. Revoking or suspending Physician's and Surgeon's Certificate No. A 25404 issued to  
13 Michael Jay Goldberg, M.D.;

14 3. Revoking, suspending or denying approval of Michael Jay Goldberg, M.D.'s  
15 authority to supervise physician assistants;

16 4. Ordering Michael Jay Goldberg, M.D. to pay, if probation is continued or extended,  
17 the costs of probation monitoring; and

18 5. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: August 20, 2015

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

21  
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24 LA2015600461  
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# **Exhibit A**

**Decision and Order**

**Medical Board of California Case No. 05-2010-206960**

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

In the Matter of the First Amended )  
Accusation Against: )

MICHAEL JAY GOLDBERG, M.D. )

Case No. 05-2010-206960

Physician's and Surgeon's )  
Certificate No. A 25404 )

Respondent )  
\_\_\_\_\_ )

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 February 14, 2014.

IT IS SO ORDERED: January 15, 2014.

MEDICAL BOARD OF CALIFORNIA

  
\_\_\_\_\_  
Barbara Yaroslavsky, Chair  
Panel A

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 RICHARD D. MARINO  
Deputy Attorney General  
4 State Bar No. 90471  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-8644  
Facsimile: (213) 897-9395  
7 E-mail: [Richard.Marino@doj.ca.gov](mailto:Richard.Marino@doj.ca.gov)  
*Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation  
12 Against:

13 **MICHAEL JAY GOLDBERG, M.D.**  
14 **23706 Oakfield Rd.**  
**Hidden Hills, CA 91356**

15 **Physician's and Surgeon's Certificate No. A**  
**25404**

16 Respondent.

Case No. 05-2010-206960

OAH No. 2012050311

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17  
18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Medical Board of California of the Department of Consumer  
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
22 which will be submitted to the Board for approval and adoption as the final disposition of the  
23 Accusation.

24 **PARTIES**

25 1. Kimberly Kirchmeyer (Complainant) is the Interim Executive Director of the Medical  
26 Board of California, Department of Consumer Affairs, State of California (Board). She brought  
27  
28

1 this action solely in her official capacity<sup>1</sup> and is represented in this matter by Kamala D. Harris,  
2 Attorney General of the State of California, by Richard D. Marino, Deputy Attorney General.

3 2. Respondent Michael Jay Goldberg, M.D. (Respondent) is represented in this  
4 proceeding by attorney Peter R. Osinoff, Esq., whose address is: Bonne, Bridges, Mueller,  
5 O'Keefe & Nichols, 3699 Wilshire Boulevard, 10th Floor, Los Angeles, California 90010-2719

6 3. On or about July 10, 1973, the Board issue Physician's and Surgeon's Certificate No.  
7 A 25404 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at  
8 all times relevant to the charges brought in Accusation No. 05-2010-206960 and will expire on  
9 August 31, 2014, unless renewed.

### 10 JURISDICTION

11 4. Accusation No. 05-2010-206960 was filed before the Board, and is currently pending  
12 against Respondent. The Accusation and all other statutorily required documents were properly  
13 served on Respondent on February 24, 2012. Respondent timely filed his Notice of Defense  
14 contesting the Accusation. Contemporaneously with the Decision and Order, a First Amended  
15 Accusation was filed before the Board.

16 5. A copy of First Amended Accusation No. 05-2010-206960 is attached as Exhibit A  
17 and incorporated herein by reference.

### 18 ADVISEMENT AND WAIVERS

19 6. Respondent has carefully read, fully discussed with counsel, and understands the  
20 charges and allegations in First Amended Accusation No. 05-2010-206960. Respondent has also  
21 carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
22 Settlement and Disciplinary Order.

23 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
24 hearing on the charges and allegations in the First Amended Accusation; the right to be  
25 represented by counsel at his own expense; the right to confront and cross-examine the witnesses  
26 against him; the right to present evidence and to testify on his own behalf; the right to the

27 <sup>1</sup> The initial accusation was filed by Linda K. Whitney in her then official capacity as the  
28 Executive Director of the Medical Board of California.

1 issuance of subpoenas to compel the attendance of witnesses and the production of documents;  
2 the right to reconsideration and court review of an adverse decision; and all other rights accorded  
3 by the California Administrative Procedure Act and other applicable laws.

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

#### 6 CULPABILITY

7 9. Respondent understands and agrees that the charges and allegations in the First  
8 Amended Accusation No. 05-2010-206960, if proven at a hearing, constitute cause for imposing  
9 discipline upon his Physician's and Surgeon's Certificate.

10 10. For the purpose of resolving the First Amended Accusation without the expense and  
11 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
12 present a *prima facie* case for the charges in the First Amended Accusation, and that Respondent  
13 hereby gives up his right to contest those charges.

14 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
15 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
16 Disciplinary Order below.

#### 17 MITIGATING CIRCUMSTANCES

18 12. Respondent has practiced in California for 40 years without prior disciplinary action.  
19 He has been Board certified in pediatrics for more than 35 years. Respondent has pursued a  
20 specialty in neuro-immune (complex viral/complex immune) disorders, participating in numerous  
21 research activities and seminars.

#### 22 RESERVATION

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

27

28



1 successfully complete the classroom component of the course not later than six (6) months after  
2 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
3 the course within one (1) year of enrollment. The medical record keeping course shall be at  
4 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
5 requirements for renewal of licensure.

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

11 Respondent shall submit a certification of successful completion to the Board or its  
12 designee not later than 15 calendar days after successfully completing the course, or not later than  
13 15 calendar days after the effective date of the Decision, whichever is later.

14 2. CLINICAL EDUCATION PROGRAM Within 60 calendar days of the effective  
15 date of this Decision, Respondent shall enroll in a clinical training or educational program  
16 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the  
17 University of California - San Diego School of Medicine ("Program"). Respondent shall  
18 successfully complete the Program not later than six (6) months after Respondent's initial  
19 enrollment unless the Board or its designee agrees in writing to an extension of that time.

20 The Program shall consist of a Comprehensive Assessment program comprised of a two-  
21 day assessment of Respondent's physical and mental health; basic clinical and communication  
22 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to  
23 Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum,  
24 a 40 hour program of clinical education in the area of practice in which Respondent was alleged  
25 to be deficient and which takes into account data obtained from the assessment, Decision(s),  
26 Accusation(s), and any other information that the Board or its designee deems relevant.  
27 Respondent shall pay all expenses associated with the clinical training program.

28 Based on Respondent's performance and test results in the assessment and clinical

1 education, the Program will advise the Board or its designee of its recommendation(s) for the  
2 scope and length of any additional educational or clinical training, treatment for any medical  
3 condition, treatment for any psychological condition, or anything else affecting Respondent's  
4 practice of medicine. Respondent shall comply with Program recommendations.

5 At the completion of any additional educational or clinical training, Respondent shall  
6 submit to and pass an examination. Determination as to whether Respondent successfully  
7 completed the examination or successfully completed the program is solely within the program's  
8 jurisdiction.

9 If Respondent fails to enroll, participate in, or successfully complete the clinical training  
10 program within the designated time period, Respondent shall receive a notification from the  
11 Board or its designee to cease the practice of medicine within three (3) calendar days after being  
12 so notified. The Respondent shall not resume the practice of medicine until enrollment or  
13 participation in the outstanding portions of the clinical training program have been completed. If  
14 the Respondent did not successfully complete the clinical training program, the Respondent shall  
15 not resume the practice of medicine until a final decision has been rendered on the accusation  
16 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of  
17 the probationary time period.

18 3. EDUCATION COURSE Within 60 calendar days of the effective date of this  
19 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
20 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
21 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
22 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
23 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
24 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
25 completion of each course, the Board or its designee may administer an examination to test  
26 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
27 hours of CME of which 40 hours were in satisfaction of this condition.

28 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the

1 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
2 Chief Executive Officer at every hospital where privileges or membership are extended to  
3 Respondent, at any other facility where Respondent engages in the practice of medicine,  
4 including all physician and locum tenens registries or other similar agencies, and to the Chief  
5 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
6 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
7 calendar days.

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

9 5. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent  
10 is prohibited from supervising physician assistants.

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

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

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

19 9. GENERAL PROBATION REQUIREMENTS.

20 Compliance with Probation Unit

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

23 Address Changes

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

1           Place of Practice

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

5           License Renewal

6           Respondent shall maintain a current and renewed California physician's and surgeon's  
7 license.

8           Travel or Residence Outside California

9           Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
10 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
11 (30) calendar days.

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

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

18           11.       NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board  
19 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
20 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
21 defined as any period of time Respondent is not practicing medicine in California as defined in  
22 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
23 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
24 time spent in an intensive training program which has been approved by the Board or its designee  
25 shall not be considered non-practice. Practicing medicine in another state of the United States or  
26 Federal jurisdiction while on probation with the medical licensing authority of that state or  
27 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
28 not be considered as a period of non-practice.

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

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

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

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

10 12 COMPLETION OF PROBATION. Respondent shall comply with all financial  
11 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
12 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
13 be fully restored.

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

21 14. LICENSE SURRENDER. Following the effective date of this Decision, if  
22 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
23 the terms and conditions of probation, Respondent may request to surrender his or her license.  
24 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
25 determining whether or not to grant the request, or to take any other action deemed appropriate  
26 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
27 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
28 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject

1 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
2 application shall be treated as a petition for reinstatement of a revoked certificate.

3 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
4 with probation monitoring each and every year of probation, as designated by the Board, which  
5 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
6 California and delivered to the Board or its designee no later than January 31 of each calendar  
7 year.

8 ACCEPTANCE

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

14  
15 DATED: 11/14/13   
16 MICHAEL JAY GOLDBERG, M.D.  
Respondent

17 I have read and fully discussed with Respondent Michael Jay Goldberg, M.D. the terms and  
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
19 I approve its form and content.

20 DATED: 11/14/13   
21 PETER R. OSINOFF, Esq.  
Attorney for Respondent

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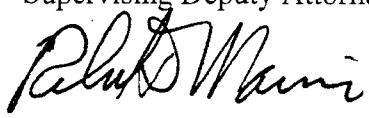
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ENDORSEMENT

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

Dated: *November 22, 2013*

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



RICHARD D. MARINO  
Deputy Attorney General  
*Attorneys for Complainant*

LA2011504282  
Goldberg Stipulated Settlement (2).DOCX

**Exhibit A**

**First Amended Accusation No. 05-2010-206960**

1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 RICHARD D. MARINO  
Deputy Attorney General  
4 State Bar No. 90471  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
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7 Facsimile: (213) 897-9395  
E-mail: Richard.Marino@doj.ca.gov

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO January 15, 2014  
BY [Signature] ANALYST

8 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation  
Against:  
13 **MICHAEL JAY GOLDBERG, M.D.**  
14 **5620 Wilbur Avenue, No. 318**  
**Tarzana, CA 91356**  
15 **Physician's and Surgeon's Certificate No. A**  
16 **25404**  
17 Respondent.

Case No. 05-2010-206960

**FIRST AMENDED ACCUSATION**

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in  
21 her official capacity as the Interim Executive Director of the Medical Board of California,  
22 Department of Consumer Affairs (Board).<sup>1</sup>  
23

24 2. On or about July 10, 1973, the Board issued Physician's and Surgeon's Certificate  
25 Number A 25404 to Michael Jay Goldberg, M.D. (Respondent). The Physician's and Surgeon's  
26

27 <sup>1</sup> The original accusation was brought by Linda K. Whitney, who, at the time, was the  
28 Executive Director of the Medical Board of California.

1 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
2 expire on August 31, 2014, unless renewed.

3 **JURISDICTION**

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

6 4. Section 2227 of the Code states:

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

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

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

15 "(3) Be placed on probation and be required to pay the costs of probation monitoring  
16 upon order of the division.

17 "(4) Be publicly reprimanded by the division.

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

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

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5. Section 2234 of the Code states:

"The Division<sup>[2]</sup> of Medical Quality 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 [Chapter 5, the Medical Practice Act].

"(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."

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<sup>2</sup> California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "Board" as used in the State Medical Practice Act (Bus.& Prof. § 2000 et. seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.



1 patient C.R. on a similar regimen as children being treated for autism by other physicians-  
2 - namely, antihistamines, antivirals, and Selective Serotonin Reuptake Inhibitors (SSRI)  
3 medication. Respondent diagnosed patient C.R. with elevated EBV titer<sup>5</sup> and neuro-  
4 immune cognitive dysfunction.

5 C. Respondent did not inform Patient C.R.'s parents of the known risks of the  
6 medications that he was recommending for Patient C.R., or did not document that he had  
7 done so in his medical records for Patient C.R.

8 D. After beginning the medication prescribed by Respondent, Patient C.R.  
9 became agitated and sleepless. He experienced "leg kicking and early waking." Patient  
10 C.R. remained on the medication regime for eleven (11) months. The medications were  
11 changed or adjusted in response to C.R.'s reactions. Respondent did not refer Patient C.R.  
12 to another physician and surgeon for his neuro-immune issues, and did not recommend  
13 that Patient C.R.'s parents consult with another physician and surgeon.

14 E. Respondent saw Patient C.R. on frequent occasions and recommended  
15 numerous blood and ear tests.

16 F. A food allergy panel showed that Patient C.R. was potentially sensitive to  
17 eggs. Respondent did not advise Patient C.R.'s parents and dismissed the test results, or  
18 did not document that he had done so in C.R.'s medical records.

19 G. Patient C.R.'s parents eventually transferred their son's care to another  
20 physician and surgeon, upon referral by Dr. Goldberg. The subsequent physician  
21 successfully treated Patient C.R.'s allergies with ear and nose congestion by inserting  
22 tubes in the child's ears one year later.

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27 <sup>5</sup> Epstein-Barr virus (HHV -3) is one of the eight known viruses that are members of the  
28 human herpes virus family.

1 H. While under Respondent's care, treatment and management, Patient C.R.  
2 had periodic problems with balance and motor issues.

3 **PATIENT A.B.**

4 I. Patient A.B. is a female teenager, prematurely born at 34 weeks. In  
5 October 2009, she was hospitalized and diagnosed with Systemic Lupus Erythematosus.  
6 Patient A.B. developed multiple organ distress, preceded a one month history of  
7 intermittent low-grade fever, nausea and weight loss.

8 J. Respondent began treating Patient A.B. at birth.

9 K. Respondent advised Patient A.B.'s mother that she, Patient A.B., exhibited  
10 some signs of cognitive motor dysfunction that are on the autistic spectrum.  
11

12 L. In 2005 or 2006, Respondent stated that Patient A.B. had activation of  
13 human herpes virus 6 (HHV-6)<sup>6</sup> for which he prescribed antiviral medications. The  
14 records maintained by Respondent for Patient A.B. did not indicate the reasons for the  
15 antiviral medications or were too illegible to read or decipher. In addition, Respondent's  
16 records did not document the reasons for his HHV-6 diagnosis and testing.  
17

18 M. Respondent recommended that Patient A.B. be treated with Imunovir from  
19  
20

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21 <sup>6</sup> Human herpes virus 6 (HHV-6) is one of the eight known viruses that are members of  
22 the human herpes virus family. The human herpes virus 6 is a virus within the Betaherpesvirinae  
23 subfamily of the genus, Roseoloviruses. There are seven other types of viruses in this family.  
24 HHV-6 has two known variants: HHV-6A and HHV-6B. Although the two variants are highly  
25 distinctive, diagnostic tests are usually unable to distinguish the specific culprit of an infection.  
26 The virus makes its home in almost 100% of the human population all over the world. The  
27 classical presentation of HHV-6 is as exanthema subitum (ES) or "roseola," featuring a high  
28 temperature followed by a rash. However recent studies show that a rash is not a distinguishing  
feature of HHV-6 infections, with rates similar to non-HHV-6 infections - 10-20% of febrile  
children in both groups, in one US study. This study recording HHV6 infection in children  
attending hospital with fever found that 15% had HHV-6. HHV-6 infections more frequently  
presented with high temperatures (over 40C), at a rate of around two thirds compare to less than  
half in the non-HHV-6 patients. Similarly significant differences were seen in malaise and  
irritability, and in tympanic membrane inflammation.

1 a Canadian pharmacy which was being used on adults with the HIV/AIDS.<sup>7</sup> Respondent  
2 did not document the reasons for wanting to use the non-approved medication and did not  
3 advise Patient A.B. or her parents of the risks associated with its use or, in the alternative,  
4 did not document that he did so.

5 N. In or about August 2009, Patient A.B. worked as a summer camp  
6 volunteer. She was in direct sunlight all day, every day. Respondent did not advise  
7 Patient A.B. or parents that the patient should limit exposure to direct sunlight or, in the  
8 alternative, did not document that he did so.

9 O. Each Canadian prescription of Imunovir cost around \$270 and contained  
10 100 pills. The medication was discontinued when Patient A.B.'s parents could no longer  
11 afford to pay for it.

12 P. During September 2009, Respondent treated Patient A.B. with a variety of  
13 antibiotic medications. Patient A.B.'s began losing weight. Respondent told Patient A.B.  
14 that she was not eating properly.

15 Q. Respondent prescribed antiviral drugs such as Valtrex, Acyclovir and  
16 Famciclovir over a long time.

17 R. Respondent regularly prescribed antibiotic medications for multiple acute  
18 infections.

19 S. Respondent told Patient A.B.'s parents that HHV-6 has been correlated  
20 with multiple sclerosis, heart disease, and leukemia, and continued treatment could reduce  
21 the incidence of these conditions.

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26 <sup>7</sup> The Federal Drug Administration (FDA) has not approved Imunovir to be sold as a  
27 prescription medication. The active ingredient in Imunovir is inosine, an amino acid that is sold  
28 as an over-the-counter nutritional supplement through the United States. Respondent  
recommended the Canadian manufactured drug to avoid the impurities that may be present in  
non-pharmaceutical medication.

1           T.       Respondent treated Patient A.B. for approximately 15 years, and when her  
2 condition worsened in September 2009, Respondent did not refer the patient to another  
3 specialist or, in the alternative, suggest that the parents take their daughter to another  
4 physician for evaluation.

5           U.       The following acts and omissions constitute departures from the standard  
6 of care:

- 7
- 8           1) As to Patients C.R. and A.B., prescribed antiviral and antifungal  
9 medications in a preventive manner where the patients did not exhibit  
10 symptoms for such medications or without adequate documentation.
  - 11           2) As to Patients C.R. and A.B., engaging in or providing unapproved  
12 treatment without advising the patients or the patients' parents or obtaining  
13 an informed consent or, in the alternative, documenting having obtained  
14 informed consent.
  - 15           3) As to Patient C.R., prescribing and continuing to prescribe SSRI medication  
16 in a preschooler notwithstanding the parent's concern and the patient having  
17 demonstrated adverse side effects.
  - 18           4) Representing himself to be a specialist in learning disorders, cognitive  
19 dysfunction, and neuro-immune autism, and disorders.
  - 20           5) Failing to diagnose or treat Patients C.R. and A.B. in accordance with  
21 commonly accepted community peer and professional guidelines for  
22 children.<sup>8</sup>
  - 23           6) Failing to formulate and provide a clear diagnosis and treatment plan for  
24 Patients C.R. and A.B. or, the in alternative, not documenting such plans.
  - 25           7) Not referring Patients C.R. and A.B. to another specialist in a timely  
26 manner.

27           <sup>8</sup> Respondent was treating A.B. for Neuro-Immune Dysfunction Syndrome (NIDS). This  
28 is not a diagnosis recognized in the general pediatric medical community.

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- 8) Failing to advise Patient C.R. or his parents of the patient's positive result for potential egg allergy or, in the alternative, not documenting such advice.
- 9) Failing to advise Patient A.B. to avoid direct sunlight or, in the alternative, not documenting such advice.
- 10) Failing to document the reasons for the various medications that he prescribed for Patients C.R. and A.B.

**SECOND CAUSE FOR DISCIPLINE**

**(Failure to Maintain Adequate and Accurate Records)**

8. Respondent is subject to disciplinary action under Business and Professions Code section 2266, in that Respondent failed to maintain adequate and accurate records pertaining to the provision of his medical services to Patients C.R. and A.B., as follows:

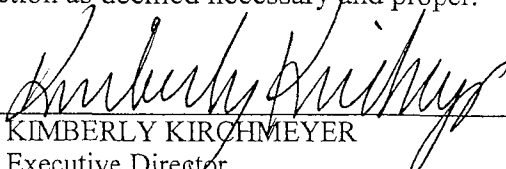
- A. Complainant refers to and, by this reference, incorporates herein as though fully set forth in paragraph 7, above.

**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 A 25404, issued to Michael Jay Goldberg, M.D.
- 2. Revoking, suspending or denying approval of Michael Jay Goldberg, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 3. Ordering Michael Jay Goldberg, 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: January 15, 2014

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

*Complainant*