

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

In the Matter of the Accusation Against:)	
)	
DAVID C. WRIGHT, M.D.)	Case No. 03-2013-231596
)	
Physician's and Surgeon's)	
Certificate No. G 88577)	
)	
Respondent.)	
_____)	


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 20, 2015.

IT IS SO ORDERED January 21, 2015.

MEDICAL BOARD OF CALIFORNIA


By: _____
Dev Gnanadev, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
4 State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5539
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 03-2013-231596

13 **DAVID C. WRIGHT, M.D.**

14 141 Pacific Avenue
Pacific Grove, CA 93950

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Physician's and Surgeon's Certificate No. G88577

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

21 **PARTIES**

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

26 2. David C. Wright, M.D. (Respondent) is represented in this matter by his attorneys
27 Kathleen Duggan and Ropers, Majeski, Kohn & Bentley, 515 So. Flower Street, Suite 1000, Los
28 Angeles, CA 90071-2213.

1 3. On October 28, 2009, the Medical Board of California issued Physician's and
2 Surgeon's Certificate Number G88577 to David C. Wright, M.D. (Respondent). Said certificate is
3 renewed and current, with an expiration date of March 31, 2015.

4 **JURISDICTION**

5 4. On March 29, 2014, complainant Kimberly Kirchmeyer, in her official capacity as
6 the Executive Director of the Board, filed Accusation no. 03-2013-231596 (Accusation) against
7 Respondent. The Accusation was duly served on Respondent and Respondent timely filed a
8 Notice of Defense. A true and correct copy of the Accusation is attached hereto as Exhibit A and
9 incorporated by reference as if fully set forth herein.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 03-2013-231596.

13 6. Respondent has carefully read and fully understands the contents, force and effect
14 of this Stipulated Settlement and Disciplinary Order, and has fully reviewed and discussed same
15 with his attorney of record.

16 7. Respondent is fully aware of his legal rights in this matter including his right to a
17 hearing on the charges and allegations contained in Accusation No. 03-2013-231596, his right to
18 present witnesses and evidence and to testify on his own behalf, his right to confront and cross-
19 examine all witnesses testifying against him, his right to the issuance of subpoenas to compel the
20 attendance of witnesses and the production of documents, his right to reconsideration and court
21 review of an adverse decision, and all other rights accorded him pursuant to the California
22 Administrative Procedure Act, the California Code of Civil Procedure, and all other applicable
23 laws, having been fully advised of same by his attorney of record. Respondent, having the benefit
24 of counsel hereby knowingly, intelligently, freely and voluntarily waives and gives up each and
25 every one of the rights set forth and/or referenced above.

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DEW

1 CULPABILITY

2 8. Respondent agrees that, at an administrative hearing, complainant could establish a
3 *prima facie* case with respect to the charges and allegations contained in Accusation No. 03-2013-
4 231596 , and that he has thereby subjected his Physician's and Surgeon's Certificate to
5 disciplinary action. Respondent further agrees to be bound by the Board's imposition of
6 discipline as set forth in the Disciplinary Order below.

7 CONTINGENCY

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

18 10. The parties understand and agree that facsimile and electronic format copies of this
19 Stipulated Settlement and Disciplinary Order, including facsimile and electronic format
20 signatures thereto, shall have the same force and effect as the originals.

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

24 DISCIPLINARY ORDER

25 A. PUBLIC REPRIMAND

26 **IT IS HEREBY ORDERED:** that Physician's and Surgeon's Certificate No. G88577
27 issued to Respondent David C. Wright, M.D., shall be and is hereby Publicly Reprimanded
28 pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This

1 Public Reprimand, which is issued in connection with Respondent's actions as set forth in
2 Accusation No. 03-2013-231596, is as follows:

3 Between January 28, 2013, and March 11, 2013, you administered daily antibiotic
4 infusion therapy to Patient K.B. for a presumed tick-borne infection caused by the
5 pathogen *Borrelia persica* without an adequate objective basis, a confirmed diagnosis
6 or a documented discussion of treatment risks and alternatives. This treatment caused
7 significant side effects and contributed to the patient's subsequent diagnosis with a *C.*
8 *Difficile* infection.

9 **B. MEDICAL RECORD KEEPING COURSE**

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

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

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

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Dated: 10/23/14

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

ROPER, MAJESKI, KOHN & BENTLEY

~~KATHLEEN DUGGAN~~
Attorneys for Respondent

ENDORSEMENT

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

Dated: *December 29, 2014*

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
4 State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5539
6 Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MARCH 17, 2014
BY: JYELHA KANALYST

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

12 In the Matter of the Accusation Against:

Case No. 03-2013-231596

13 **DAVID C. WRIGHT, M.D.**
14 141 Pacific Avenue
Pacific Grove, CA 93950

ACCUSATION

Physician's and Surgeon's Certificate No. G88577

Respondent.

15
16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On October 28, 2009, the Medical Board of California issued Physician's and
23 Surgeon's Certificate Number G88577 to David C. Wright, M.D. (Respondent). Said certificate is
24 renewed and current, with an expiration date of March 31, 2015.

25 //

26 //

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JURISDICTION

3. This Accusation is brought before the Medical Board of California¹ (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions 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 or suspended for a period not to exceed one year; or the licensee may be placed on probation and may be required to pay the costs of probation monitoring or may have such other action taken in relation to discipline as the Division deems proper.

5. Section 2234 of the Code provides that the Medical Board shall take action against any licensee who is charged with unprofessional conduct. Unprofessional conduct includes, but is not limited to:

(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. . ."

¹ The term "Board" means the Medical Board of California. "Division of Medical Quality" shall also be deemed to refer to the Board.

6. Section 2266 of the Code provides:
“The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.”

FIRST CAUSE FOR DISCIPLINARY ACTION

(Gross Negligence/Repeated Negligent Acts/Inadequate Records)

7. Respondent’s license is subject to discipline and respondent is guilty of unprofessional conduct in violation of Business and Professions Code § 2234(b) and/or (c) and/or § 2266 in that respondent was grossly negligent and/or committed repeated negligent acts in his care and treatment of Patient K.B.² and failed to keep adequate and accurate records, including but not limited to the following:

A. At all relevant times, respondent was a physician specializing in Infectious Diseases with offices in Monterey, California.

B. Patient K.B., a 32 year old female, came under respondent’s care and treatment on or about January 28, 2013. In her initial communications with respondent, K.B. gave a history of multiple symptoms following a several year period during which she lived in Israel. K.B. also reported frequent contact with head lice and one occasion when she pulled “a black bug the size of a tick” from her hair. She also reported that the person with whom she lived in Israel had been diagnosed with tick-borne relapsing fever. K.B. had learned of respondent from a patient blog on tick-borne infections called “The Tick That Bit Me” and she contacted respondent for the name of a physician in her area who might evaluate and treat her symptoms. Respondent recommended that K.B. come to his clinic in California for treatment which she did, in part because of her reliance on the information contained in the patient blog. Respondent did not disclose to K.B. that the author of the blog was a member of respondent’s family.

C. At her first office visit on January 28, 2013, respondent advised K.B. that based upon her history and symptoms, he believed that she suffered from a chronic tick-borne infection caused by pathogen *Borrelia persica*, which is endemic to Israel and the Middle East. He

² The patient’s name is abbreviated to protect privacy interests.

1 recommended that she undergo six weeks of daily IV antibiotic treatment with ceftriaxone. The
2 record of that encounter is significant for the absence of a documented discussion regarding
3 possible alternative diagnoses, the possible risks of the proposed course of IV antibiotic treatment
4 or alternatives to that treatment.

5 D. Multiple laboratory tests for different tick-related *Borrelia* and *Bartonella* strains were
6 ordered by respondent, but the results of all of them were negative. While serologic tests for
7 *Borrelia persica* are not commercially available in the United States, respondent did not order an
8 examination of blood smear samples to detect the organisms and thereby support his diagnosis of
9 *Borrelia persica*. In fact, that diagnosis was not supported by objective findings and the proposed
10 treatment with six weeks of daily IV ceftriaxone was neither the generally accepted modality for
11 treatment of tick-borne relapsing fever caused by *Borrelia persica*, nor the recommended
12 treatment duration.

13 E. K.B. began the recommended daily antibiotic treatment, which respondent
14 administered via a peripheral IV that he placed himself. When K.B. and her mother commented
15 that respondent did not wear gloves or appear to wash his hands when administering the infusion
16 therapy, respondent advised them that it wasn't necessary. Although K.B. experienced various
17 problems related to the treatment, these problems are frequently omitted from respondent's
18 records due to the fact that the electronic chart notes were copied from visit to visit. As a result of
19 this template-use of prior chart notes, respondent's records are in many instances neither adequate
20 nor accurate records of what actually transpired at each visit.

21 F. K.B. had significant side effects as a consequence of the ceftriaxone therapy and,
22 after K.B. developed a rash while receiving ceftriaxone, respondent changed her medication to
23 ertapenem on February 23, 2014. Respondent's review of systems, however, states "negative for
24 rashes."

25 G. As her treatment progressed, K.B. experienced increasing abdominal pain, although
26 this is not noted in respondent's chart until March 2, 2013 -- after K.B. had presented to a local
27 hospital emergency room. On March 5, 2013, K.B. underwent a laparoscopic cholecystectomy
28

1 for gallstones, described to her as biliary sludge, and which may have resulted from her
2 ceftriaxone therapy.

3 H. K.B. completed respondent's prescribed six week course of daily infusion therapy on
4 March 11, 2013. Although respondent's chart notes stated that K.B.'s nausea and vomiting had
5 resolved as of March 6, in fact K.B. became increasingly ill with fever and vomiting. She went
6 first to a local emergency room and then to a hospital in the San Francisco Bay Area, where she
7 was diagnosed with *Clostridium difficile* colitis (a possible consequence of the ceftriaxone
8 therapy) and required a prolonged hospitalization for treatment of that bacterial infection.

9 8. Respondent is guilty of unprofessional conduct and subject to disciplinary action
10 under section 2234, and/or 2234(b) and/or 2234(c) and/or 2266 of the Code in that respondent
11 was grossly negligent and/or committed repeated negligent acts and/or failed to maintain
12 adequate and accurate medical records, including but not limited to the following:

13 A. Respondent failed to maintain appropriate records, instead copying them from visit to
14 visit resulting in each chart note being an inaccurate record of what transpired at each of the
15 patient's visits;

16 B. Respondent diagnosed a presumptive chronic *Borrelia persica* infection without an
17 adequate objective basis;

18 C. Respondent recommended and administered an atypical treatment for presumptive
19 *Borrelia persica* infection without an adequate basis in the medical literature;

20 D. Respondent failed to discuss and/or failed to document the risks and alternatives to
21 the proposed treatment;

22 E. Respondent failed to follow standard guidelines for hand hygiene in the placement of
23 peripheral intravenous catheters;

24 F. Respondent utilized a patient blog as an endorsement without disclosing that the
25 blog's author was a family member.

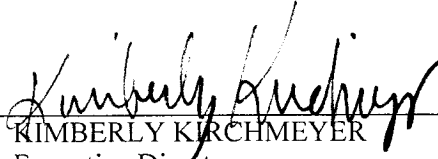
26 **PRAYER**

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

- 1 1. Revoking or suspending physician and surgeon certificate number G88577 issued to
- 2 David C. Wright, M.D.;
- 3 2. Prohibiting David C. Wright, M.D., from supervising physician assistants pursuant to
- 4 section 3257 of the Code;
- 5 3. Ordering David C. Wright, M.D., if placed on probation, to pay the costs of probation
- 6 monitoring;
- 7 4. Taking such other and further action as may be deemed proper and appropriate.

8 March 19, 2014

9 DATED: _____


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

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