

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

**In the Matter of the Accusation)
Against:)**

BENJAMIN KAUFMAN, M.D.)

Case No. 800-2015-013550

**Physician's and Surgeon's)
Certificate No. A 20912)**

Respondent)

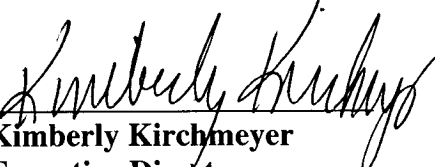
DECISION

**The attached Stipulated Surrender of License and 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 October 7, 2015

IT IS SO ORDERED September 30, 2015

MEDICAL BOARD OF CALIFORNIA

By: 
**Kimberly Kirchmeyer
Executive Director**

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
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Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 800-2015-013550

12 BENJAMIN KAUFMAN, M.D.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

13 3938 T Street
14 Sacramento, CA 95819-4730

15 Physician's and Surgeon's Certificate No. A 20912,
16 Respondent.

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

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
21 Board of California, Department of Consumer Affairs ("Board"). She brought this action solely
22 in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of
23 the State of California, by John S. Gatschet, Deputy Attorney General.

24 2. Benjamin Kaufman, M.D. ("Respondent") is represented in this proceeding by
25 attorney Robert J. Sullivan, whose address is Nossaman LLP, 621 Capitol Mall, 25th Floor
26 Sacramento, CA 95814.

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1 3. On or about October 8, 1963, the Medical Board of California issued Physician's and
2 Surgeon's Certificate No. A 20912 to Respondent. That license was in full force and effect at all
3 times relevant to the charges brought herein and will expire on June 30, 2017, unless renewed.

4 JURISDICTION

5 4. Accusation No. 800-2015-013550 was filed before the Board, and is currently
6 pending against Respondent. The Accusation and all other statutorily required documents were
7 properly served on Respondent. Respondent has agreed to waive the filing of his Notice of
8 Defense and enter into a Stipulated Surrender of his license. A copy of Accusation No. 800-
9 2015-013550 is attached as Exhibit A and incorporated by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2015-013550. Respondent also has carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
14 and Order.

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

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

24 CULPABILITY

25 8. Respondent understands that the charges and allegations in Accusation No. 800-2015-
26 013550, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
27 Surgeon's Certificate.

9. Respondent wishes to retire from the practice of medicine. 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 those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

RESERVATION

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

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 surrender, 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 Surrender 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 Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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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 Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 20912, issued to Respondent Benjamin Kaufman, M.D., is surrendered and accepted by the Medical Board of California.

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

2. Respondent shall lose all rights and privileges as a Physician in California as of the effective date of the Board's Decision and Order.

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2015-013550, shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. The Board, upon acceptance of Respondent's surrender of his certificate to practice medicine, shall close the pending following Investigations of Respondent in Investigation Nos. 800-2014-009069, 800-2015-011264, and 800-2015-013550.

6. Respondent understands and agrees that all information contained in Investigation Nos. 800-2014-009069, 800-2015-011264, and 800-2015-013550, shall be preserved. Upon a petition for reinstatement, Respondent agrees and understands that the Board shall be able to use the Investigations as a basis for denial of a petition for reinstatement. The Investigations shall be deemed to be true, correct, and admitted by Respondent when the Board determines whether to

1 grant or deny the petition. Respondent understands and agrees that by entering into this
2 stipulation, that he is permanently waiving any and all claims of laches or statute of limitation
3 defenses as they relate to Investigations Nos. 800-2014-009069, 800-2015-011264, and 800-
4 2015-013550.

5 7. If Respondent should ever apply or reapply for a new license or certification, or
6 petition for reinstatement of a license, by any other health care licensing agency in the State of
7 California, all of the charges and allegations contained in Accusation, No. 800-2015-013550,
8 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
9 of Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

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

DATED:

September 3rd 2015 

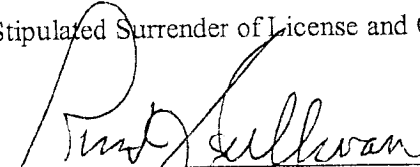
BENJAMIN KAUFMAN, M.D.

Respondent

I have read and fully discussed with Respondent Benjamin Kaufman, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

Sept 12, 2015



ROBERT J. SULLIVAN

Attorney for Respondent

ENDORSEMENT

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

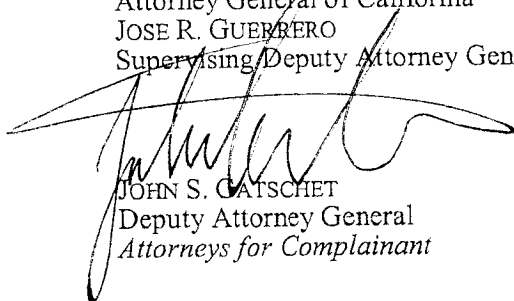
Dated:

9/15/2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California

JOSE R. GUERRERO
Supervising Deputy Attorney General


JOHN S. GATSCHE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-013550

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 22, 2015
BY: RECEIVED ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 445-5230
7 Facsimile: (916) 327-2247
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 Accusation Against:

Case No. 800-2015-013550

12 BENJAMIN KAUFMAN, M.D.

A C C U S A T I O N

13 3938 T Street
14 Sacramento, CA 95819-4730

15 Physician's and Surgeon's Certificate No. A 20912,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 8, 1963, the Medical Board issued Physician's and Surgeon's
24 Number A 20912 to Benjamin Kaufman, M.D. ("Respondent"). That license was in full force
25 and effect at all times relevant to the charges brought herein and will expire on June 30, 2017,
26 unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, 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 states:

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

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

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

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

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

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

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

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:

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

3 “(b) Gross negligence.”

4 “...”

5 **CAUSE FOR DISCIPLINE**

6 **(Gross Negligence, Patient L.S.)**

7 6. Respondent's license is subject to disciplinary action under section 2234, subdivision
8 (b), of the Code in that he committed acts of gross negligence and unprofessional conduct during
9 the care and treatment of L.S.¹ The circumstances are as follows:

10 7. On or about June 2005, Respondent began providing psychiatric care to patient L.S.
11 Beginning in 2008, Respondent was notified by the family of L.S. that L.S. suffered from
12 alcoholism. Respondent continued to provide treatment without properly diagnosing and
13 managing L.S.'s alcoholism.

14 8. Beginning in September 2010, Respondent stopped seeing L.S. in person at his clinic.
15 Between September 2010, and September 9, 2011, Respondent continued to routinely prescribe
16 Schedule III medications and mood stabilizers to L.S. without seeing L.S. in person, despite
17 knowing that L.S. was an alcoholic, severely depressed, and had attempted suicide in the past.
18 Respondent's only contact with L.S. during that period of time was over the telephone.

19 9. On September 9, 2011, L.S. fell into a coma. L.S. suffers from
20 Wernickes/Korsokoffs syndrome, severe peripheral neuropathy, and ataxia. L.S. is permanently
21 disabled.

22 10. Respondent's care and treatment of L.S. was an extreme departure from the standard
23 of care by failing to adequately diagnose and manage chronic alcoholism leading to an
24 irreversible neurological condition which resulted in the incapacitation of the patient.

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28 ¹ All parties and witnesses will be identified in discovery.

1 11. Respondent's conduct as described above is gross negligence in the practice of
2 medicine and constitutes unprofessional conduct in violation of section 2234, subdivision (b), of
3 the Code and thereby provides cause for discipline to Respondent's license.

4 **PRAYER**

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

7 1. Revoking or suspending Physician's and Surgeon's Number A 20912, issued to
8 Benjamin Kaufman, M.D.;

9 2. Revoking, suspending or denying approval of his authority to supervise physician
10 assistants, pursuant to section 3527 of the Code;

11 3. If placed on probation, ordering him to pay the Board the costs of probation
12 monitoring; and

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

14
15 DATED: September 22, 2015


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

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