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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:

13 **GREGORY MICHAEL ORGAN, M.D.**
14 680 Bell Street
East Palo Alto, CA 94303
15 Physician's and Surgeon's Certificate No. G 81845
16

17 Respondent.

Case No. 800-2017-029643

OAH No. 2019010279

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Lawrence Mercer,
25 Deputy Attorney General.
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2. Respondent Gregory Michael Organ, M.D. (Respondent) is represented in this proceeding by his attorneys Jonathan H. Rose, Esq., and Dincel Law Group whose address is: One Almaden Boulevard, Suite 710, San Jose, CA 95113.

3. On or about August 2, 1995, the Board issued Physician's and Surgeon's Certificate No. G 81845 to Gregory Michael Organ, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-029643, and will expire on May 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-029643 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 21, 2018. Respondent timely filed his Notice of Defense contesting the Accusation:

5. A copy of Accusation No. 800-2017-029643 is attached as exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-029643. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2017-029643, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

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

12 CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 81845 issued to Respondent Gregory Michael Organ, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to or recommended for Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications or physician's recommendation for the use of medical cannabis, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,

1 non-adoption of the proposed decision, requests for reconsideration, remands and other
2 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
3 reduction of the probationary time period.

4 If the Board does not file an accusation or petition to revoke probation within 30 days of the
5 issuance of the notification to cease practice or does not provide Respondent with a hearing
6 within 30 days of a such a request, the notification of cease practice shall be dissolved.

7 2. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
8 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
9 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
10 follicle testing, or similar drug screening approved by the Board or its designee. Prior to
11 practicing medicine, Respondent shall contract with a laboratory or service approved in advance
12 by the Board or its designee that will conduct random, unannounced, observed, biological fluid
13 testing. The contract shall require results of the tests to be transmitted by the laboratory or
14 service directly to the Board or its designee within four hours of the results becoming available.
15 Respondent shall maintain this laboratory or service contract during the period of probation.

16 A certified copy of any laboratory test result may be received in evidence in any
17 proceedings between the Board and Respondent.

18 If Respondent fails to cooperate in a random biological fluid testing program within the
19 specified time frame, Respondent shall receive a notification from the Board or its designee to
20 immediately cease the practice of medicine. The Respondent shall not resume the practice of
21 medicine until the final decision on an accusation and/or a petition to revoke probation is
22 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30
23 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
24 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
25 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
26 an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board
27 within 15 days of submission of the matter.. Within 15 days of receipt by the Board of the
28 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good

1 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
2 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
3 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for
4 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of
5 practice shall not apply to the reduction of the probationary time period.

6 If the Board does not file an accusation or petition to revoke probation within 15 days of the
7 issuance of the notification to cease practice or does not provide Respondent with a hearing
8 within 30 days of such a request, the notification of cease practice shall be dissolved.

9 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
10 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
11 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
12 Respondent shall participate in and successfully complete that program. Respondent shall
13 provide any information and documents that the program may deem pertinent. Respondent shall
14 successfully complete the classroom component of the program not later than six (6) months after
15 Respondent's initial enrollment, and the longitudinal component of the program not later than the
16 time specified by the program, but no later than one (1) year after attending the classroom
17 component. The professionalism program shall be at Respondent's expense and shall be in
18 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

19 A professionalism program 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 the fulfillment of this condition if the program would have
22 been approved by the Board or its designee had the program been taken after the effective date of
23 this Decision.

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

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

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

10 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
11 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
12 advanced practice nurses.

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

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

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

21 8. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

23 Respondent shall comply with the Board's probation unit.

24 Address Changes

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

1 and Professions Code section 2021(b).

2 Place of Practice

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

6 License Renewal

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

9 Travel or Residence Outside California

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

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

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

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

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

5 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
6 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
7 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
8 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
9 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

12 Periods of non-practice for a Respondent residing outside of California will relieve
13 Respondent of the responsibility to comply with the probationary terms and conditions with the
14 exception of this condition and the following terms and conditions of probation: Obey All Laws;
15 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
16 Controlled Substances; and Biological Fluid Testing..

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

21 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
22 of probation is a violation of probation. If Respondent violates probation in any respect, the
23 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
24 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
25 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
26 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
27 the matter is final.
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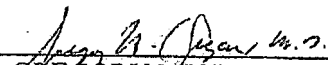
1 13. LICENSE SURRENDER. Following the effective date of this Decision, if
2 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
3 the terms and conditions of probation, Respondent may request to surrender his or her license.
4 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
5 determining whether or not to grant the request, or to take any other action deemed appropriate
6 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
7 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
8 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
9 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
10 application shall be treated as a petition for reinstatement of a revoked certificate.

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

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Jonathan H. Rose, Esq.. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
5 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

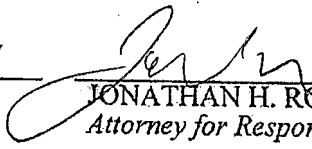
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8 DATED: 03/22/2019


9 GREGORY MICHAEL ORGAN, M.D.
Respondent

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11
12 I have read and fully discussed with Respondent Gregory Michael Organ, M.D. the terms
13 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
14 Order. I approve its form and content.

15 DINCEL LAW GROUP, APC

16
17 DATED: 03/22/2019


18 JONATHAN H. ROSE, ESQ.
Attorney for Respondent

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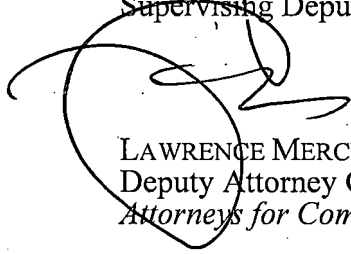
ENDORSEMENT

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

Dated: 3/25/2019

Respectfully submitted,

XAVIER BECERRA
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

Accusation No. 800-2017-029643

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 21, 2018
BY: Jody Wright ANALYST

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

In the Matter of the Accusation Against:

Case No. 800-2017-029643

GREGORY MICHAEL ORGAN, M.D.
680 Bell Street
East Palo Alto, CA 94303

A C C U S A T I O N

Physician's and Surgeon's Certificate
No. G 81845,

Respondent.

Complainant alleges:

PARTIES

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

2. On or about August 2, 1995, the Medical Board issued Physician's and Surgeon's Certificate Number G 81845 to Gregory Michael Organ, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

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 unless otherwise indicated.

1 4. Section 2234 of the Code states:

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

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

7

8 “(f) Any action or conduct which would have warranted the denial of a certificate.

9 5. Section 2236 of the Code states:

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

14

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

18 6. Section 2237 of the Code states that

19 “(a) The conviction of a charge of violating any . . . statute or regulation of this state,
20 regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. The
21 record of conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of
22 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the
23 meaning of this section.”

24 7. California Code of Regulations (CCR), title 16, section 1360, states:

25 AFor the purposes of denial, suspension or revocation of a license, certificate or permit
26 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
27 considered to be substantially related to the qualifications, functions or duties of a person holding
28 a license, certificate or permit under the Medical Practice Act if to a substantial degree it

1 evidences present or potential unfitness of a person holding a license, certificate or permit to
2 perform the functions authorized by the license, certificate or permit in a manner consistent with
3 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
4 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
5 violation of, or conspiring to violate any provision of the Medical Practice Act.

6 **CAUSE FOR DISCIPLINE**

7 **(Drug-Related Conviction and/or Substantially-Related Conviction**
8 **and/or Unprofessional Conduct)**

9 8. Respondent Gregory Michael Organ, M.D. is subject to disciplinary action under
10 sections 2234, and/or 2236 and/or 2237, and/or California Code of Regulations (CCR), title 16,
11 section 1360, in that he was convicted on his plea of guilty to a misdemeanor violation of Health
12 & Safety Code section 11350(a), possession of a controlled substance. The circumstances are as
13 follows:

14 9. On or about December 7, 2016, a criminal complaint titled *People of the State of*
15 *California vs. Gregory Michael Organ* was filed in Santa Clara County Superior Court, case no.
16 B1689424. Count 1 charged Respondent with a misdemeanor violation of Health & Safety Code
17 section 11350(a), possession of a controlled substance, cocaine. Count 2 charged Respondent
18 with a misdemeanor violation of Health & Safety Code section 11364, possession of controlled
19 substance paraphernalia.

20 10. On or about August 3, 2017, Respondent entered a plea of guilty to Counts 1 and 2,
21 and the Court granted deferred entry of judgment.

22 11. As such, Respondent's conviction and conduct constitute a violation of Code section
23 2336/California Code of Regulations, title 16, section 1360 (criminal conviction), 2237 (drug-
24 related conviction), and/or section 2234 (unprofessional conduct).

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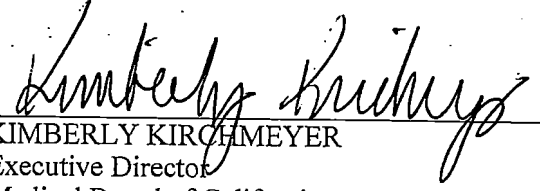
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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 81845, issued to Gregory Michael Organ, M.D.;
2. Revoking, suspending or denying approval of Gregory Michael Organ, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Gregory Michael Organ, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: February 21, 2018


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

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