

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

In the Matter of the Statement of Issues
Against:

File No. 800-2019-058115

Marx P. Genovez

Respondent.

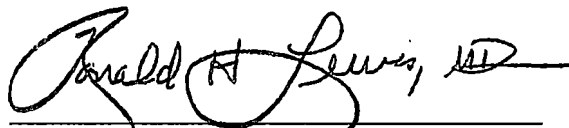
DECISION AND ORDER

The attached Stipulation for a Probationary License is hereby accepted and 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 **June 15, 2020**, although the probation will not commence until the applicant completes any remaining requirements for licensure and the license is issued.

ORDERED: June 8, 2020

MEDICAL BOARD OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Ronald H. Lewis, MD", written over a horizontal line.

**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
4 State Bar No. 267098
California Department of Justice
5 300 So. Spring Street, Suite 1702
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7 *Attorneys for Complainant*

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

12
13 In the Matter of the Statement of Issues
Against:

14 **Marx P. Genovez,**

15 Applicant.

Case No. 800-2019-058115

OAH No. 2019100401

16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

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. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
22 Board of California (Board). She brought this action solely in her official capacity and is
23 represented in this matter by Xavier Becerra, Attorney General of the State of California, via
24 Joshua M. Templet, Deputy Attorney General.

25 2. Applicant Marx P. Genovez (Applicant) is represented in this proceeding by David
26 M. Balfour, Nossaman LLP, 1925 Palomar Oaks Way, Suite 220, Carlsbad, CA 92008.

27 3. Applicant filed an application dated January 10, 2019, with the Board to obtain a
28 Physician's and Surgeon's Certificate.

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5. A copy of the Statement of Issues is attached as **Exhibit A** and incorporated herein.

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11. Applicant agrees that his application for a Physician's and Surgeon's Certificate is subject to denial, and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Applicant Marx P. Genovez be issued a Physician's and Surgeon's Certificate on a probationary basis for a period of three years, subject to the following terms and conditions. Probation shall begin on the date Applicant is issued a probationary license.

1. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Applicant shall enroll in a professionalism program that meets the requirements of title 16, section 1358.1 of the California Code of Regulations. Applicant shall participate in and successfully complete that program. Applicant shall provide any information and documents that the program may deem pertinent. Applicant shall successfully complete the

1 classroom component of the program not later than six months after Applicant's initial
2 enrollment, and the longitudinal component of the program not later than the time specified by
3 the program, but no later than one year after attending the classroom component. The
4 professionalism program shall be at Applicant's expense and shall be in addition to the
5 Continuing Medical Education requirements for renewal of licensure.

6 A professionalism program 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 program would have
9 been approved by the Board or its designee had the program been taken after the effective date of
10 this Decision.

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

14 2. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
15 Applicant shall submit to the Board or its designee for prior approval the name and qualifications
16 of a California-licensed, board-certified psychiatrist, or a licensed psychologist who has a
17 doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis
18 and treatment of emotional and mental disorders. Upon approval, Applicant shall undergo and
19 continue psychotherapy treatment, including any modifications to the frequency of
20 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

21 The psychotherapist shall consider any information provided by the Board or its designee
22 and any other information the psychotherapist deems relevant and shall furnish a written
23 evaluation report to the Board or its designee. Applicant shall cooperate in providing the
24 psychotherapist with any information and documents that the psychotherapist may deem
25 pertinent.

26 Applicant shall have the treating psychotherapist submit quarterly status reports to the
27 Board or its designee. The Board or its designee may require Applicant to undergo psychiatric
28 evaluations by a Board-appointed, board-certified psychiatrist. If, prior to the completion of

1 probation, Applicant is found to be mentally unfit to resume the practice of medicine without
2 restrictions, the Board shall retain continuing jurisdiction over Applicant's license and the period
3 of probation shall be extended until the Board determines that Applicant is mentally fit to resume
4 the practice of medicine without restrictions.

5 Applicant shall pay the cost of all psychotherapy and psychiatric evaluations.

6 3. PROHIBITED PRACTICE. During probation, Applicant is prohibited from
7 practicing medicine outside of an Accreditation Council for Graduate Medical Education
8 (ACGME)-accredited postgraduate training program. Further, Applicant must successfully
9 complete 24 months of ACGME-accredited postgraduate training.

10 4. NOTIFICATION. Within seven days of the effective date of this Decision, the
11 Applicant shall provide a copy of this Decision and Accusation to the Chief of Staff or the Chief
12 Executive Officer at every hospital where privileges or membership are extended to Applicant, at
13 any other facility where Applicant engages in the practice of medicine, including all physician
14 and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every
15 insurance carrier which extends malpractice insurance coverage to Applicant. Applicant shall
16 submit proof of compliance to the Board or its designee within 15 calendar days.

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

18 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
19 NURSES. During probation, Applicant is prohibited from supervising physician assistants and
20 advanced practice nurses.

21 6. OBEY ALL LAWS. Applicant shall obey all federal, state, and local laws, and all
22 rules governing the practice of medicine in California, and shall remain in full compliance with
23 any court-ordered criminal probation, payments, and other orders.

24 7. QUARTERLY DECLARATIONS. Applicant shall submit quarterly declarations
25 under penalty of perjury on forms provided by the Board, stating whether he has complied with
26 all the conditions of probation.

27 Applicant shall submit quarterly declarations not later than ten calendar days after the end
28 of the preceding quarter.

1 8. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Applicant shall comply with the Board's probation unit.

4 Address Changes

5 Applicant shall, at all times, keep the Board informed of Applicant's business and residence
6 addresses, e-mail address (if available), and telephone number. Changes of such addresses shall
7 be immediately communicated in writing to the Board or its designee. Under no circumstances
8 shall a post office box serve as an address of record, except as allowed by Business and
9 Professions Code section 2021(b).

10 Place of Practice

11 Applicant shall not engage in the practice of medicine in Applicant's or a patient's place of
12 residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

13 License Renewal

14 Applicant shall maintain a current and renewed California Physician's and Surgeon's
15 Certificate.

16 Travel or Residence Outside California

17 Applicant shall immediately inform the Board or its designee, in writing, of travel to any
18 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30
19 calendar days.

20 In the event Applicant should leave the State of California to reside or to practice,
21 Applicant shall notify the Board or its designee in writing 30 calendar days prior to the dates of
22 departure and return.

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

26 10. NON-PRACTICE WHILE ON PROBATION. Applicant shall notify the Board or its
27 designee in writing within 15 calendar days of any periods of non-practice lasting more than 30
28 calendar days and within 15 calendar days of Applicant's return to practice. Non-practice is

1 defined as any period of time Applicant is not practicing medicine, as defined in Business and
2 Professions Code sections 2051 and 2052, for at least 40 hours in a calendar month in direct
3 patient care, clinical activity, teaching, or other activity as approved by the Board. If Applicant
4 resides in California and is considered to be in non-practice, Applicant shall comply with all
5 terms and conditions of probation. All time spent in an intensive training program that has been
6 approved by the Board or its designee shall not be considered non-practice and does not relieve
7 Applicant from complying with all the terms and conditions of probation. Practicing medicine in
8 another state of the United States or federal jurisdiction while on probation with the medical
9 licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-
10 ordered suspension of practice shall not be considered as a period of non-practice.

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

16 Applicant's period of non-practice while on probation shall not exceed two years.

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

18 Periods of non-practice for an Applicant residing outside of California will relieve
19 Applicant of the responsibility to comply with the probationary terms and conditions with the
20 exception of this condition and the following terms and conditions of probation: Obey All Laws;
21 General Probation Requirements; and Quarterly Declarations.

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

26 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Applicant violates probation in any respect, the Board,
28 after giving Applicant notice and the opportunity to be heard, may revoke probation and carry out

1 the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or Interim
2 Suspension Order is filed against Applicant during probation, the Board shall have continuing
3 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
4 is final.

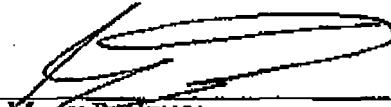
5 13. LICENSE SURRENDER. Following the effective date of this Decision, if Applicant
6 ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms
7 and conditions of probation, Applicant may request to surrender his license. The Board reserves
8 the right to evaluate Applicant's request and to exercise its discretion in determining whether or
9 not to grant the request, or to take any other action deemed appropriate and reasonable under the
10 circumstances. Upon formal acceptance of the surrender, Applicant shall within 15 calendar days
11 deliver Applicant's wallet and wall certificate to the Board or its designee and Applicant shall no
12 longer practice medicine. Applicant will no longer be subject to the terms and conditions of
13 probation. If Applicant re-applies for a medical license, the application shall be treated as a
14 petition for reinstatement of a revoked certificate.

15 14. PROBATION MONITORING COSTS. Applicant shall pay the costs associated with
16 probation monitoring each and every year of probation, as designated by the Board, which may be
17 adjusted on an annual basis. Such costs shall be payable to the Board and delivered to the Board
18 or its designee no later than January 31 of each calendar year.

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20 ACCEPTANCE

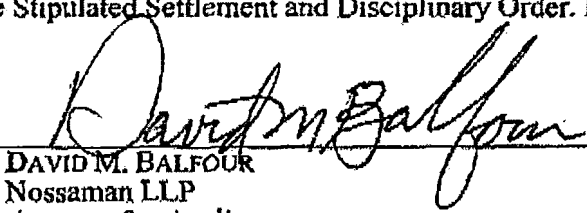
21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, David M. Balfour. I understand the stipulation and the effect it will
23 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Medical Board of California.

26
27 DATED: 4/16/2020

28 
MARK P. GENOVEZ
Applicant

1 I have read and fully discussed with Applicant Marx P. Genovez the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4 DATED: 4/17/2020


DAVID M. BALFOUR
Nossaman LLP
Attorney for Applicant

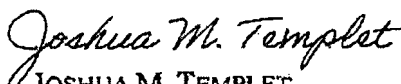
7 **ENDORSEMENT**

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

10
11 DATED: 4/17/2020

Respectfully submitted,

12 XAVIER BECERRA
13 Attorney General of California
14 E. A. JONES III
Supervising Deputy Attorney General

15 
16 JOSHUA M. TEMPLET
17 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 800-2019-058115

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
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4 State Bar No. 219400
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO September 4 2019
BY K. Voong ANALYST

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

12 In the Matter of the Statement of Issues
13 Against:

Case No. 800-2019-058115

14 **MARX P. GENOVEZ**

15 Applicant.

STATEMENT OF ISSUES

16
17 **PARTIES**

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

21 2. On or about April 4, 2017, the Medical Board of California, Department of Consumer
22 Affairs (Board) received an application for a Physician's and Surgeon's Certificate from Marx P.
23 Genovez (Applicant). On or about November 2, 2016, Marx P. Genovez certified under penalty
24 of perjury to the truthfulness of all statements, answers, and representations in the application.
25 The Board denied the application on May 16, 2019.

26 ///

27 ///

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 475 of the Code states, in relevant part:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

“ ”

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.”

5. Section 480 of the Code states, in relevant part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“ ”

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.”

6. Section 2221 of the Code states, in relevant part:

(a) The board may deny a physician's and surgeon's certificate to an applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license. The board in its sole discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

1 (9) Payment of the cost of probation monitoring.

2 7. Section 2234 of the Code, the Board may deny an application if the applicant has
3 engaged in unprofessional conduct, which includes, but is not limited to:

4 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
5 the violation of, or conspiring to violate any provision of this chapter [Chapter 5 of the Medical
6 Practice Act].

7 “. . . .”

8 “(d) Incompetence.”

9 “. . . .”

10 STATEMENT OF FACTS

11 8. On or about April 4, 2017, the Board received an application for a Physician’s and
12 Surgeon’s Certificate from Applicant. The Applicant stated on the application that the results of
13 the USMLE Step 3 results were pending. The Applicant also indicated that he started medical
14 school on September 20, 2010 and completed it on May 29, 2016. In a supporting letter of
15 explanation, the Applicant stated that he had to repeat his second year of medical school because
16 he did not pass a class and that he extended his fourth year of medical school due to “scheduling
17 and to increase my away rotation number.”

18 9. On or about January 17, 2018, the Board received an update to the application for
19 Physician’s and Surgeon’s Certificate. The Applicant indicated he still had not passed the
20 USMLE Step 3. The Applicant checked “yes” to question number 22, “Have you ever had any
21 limitations or special requirements placed upon you for clinical performance, professionalism,
22 medical knowledge, discipline, or for any other reason?”

23 10. On or about January 14, 2019, the Board received a second update to the application
24 for Physician’s and Surgeon’s Certificate. The Applicant still had not passed the USMLE Step 3.
25 Additionally, the Applicant checked “yes” to questions number 19 and 23. Question number 19
26 asked, “Have you ever been terminated, dismissed, or expelled from a program?” and question
27 number 23 asked, “Have you ever had a postgraduate training program contract not be renewed or
28 offered for a following year?” In a letter of explanation, the Applicant indicated that after not

1 passing the USMLE Step 3, his residency contract was not renewed because he could not obtain
2 his California Physician's and Surgeon's Certificate.

3 11. On or about March 4, 2019, the Board received an updated "Certificate of
4 Completion of ACGME/RCPSC Postgraduate Training" form from the Applicant's residency
5 program. In the "Unusual Circumstances" section of the form, the following questions were
6 answered "yes":

7 a. "Did the applicant receive partial or no credit during his/her postgraduate
8 training?" (Question No. 1)

9 b. "Did the applicant ever take a leave of absence or break from his/her training?"
10 (Question No. 2)

11 c. "Was the applicant ever terminated, dismissed, or expelled?" (Question No. 3)

12 d. "Were any limitations or special requirements placed upon the applicant for
13 clinical performance, professionalism, medical knowledge, discipline, or for any other reason?"
14 (Question No. 6)

15 e. "Did the program decline to renew or offer the applicant postgraduate training
16 program contract for a following year?" (Question No. 7)

17 12. According to documents from the Applicant's Residency Director, the following
18 concerns were noted during the Applicant's Family Medicine Inpatient Service Rotation (IPS):

19 a. On February 24, 2017, an individual learning plan was entered into with the
20 Applicant to address the following concerns of the senior/chief residents: "Comments regarding
21 your rotations include improving standard verbal presentations including complete patient
22 assessments without missing relevant details, need to complete daily notes in a timely manner,
23 need to focus on pertinent issues as opposed to patient care details, improving efficiency with
24 completing daily tasks, and improved overall organization and efficiency to the patient care day.
25 These comments were corroborated by Family Medicine Senior Residents on service." The plan
26 was to cover the IPS from March 13, 2017 through April 19, 2017.

27 b. A second IPS rotation was scheduled for July 1 through 30, 2017 because the
28 Applicant was not ready to progress to a senior resident. During this additional rotation period,

1 all of the attending physicians noted that the Applicant did not “demonstrate readiness to be
2 advanced to the position of a senior resident on the IPS, which included sub-competencies PC-1
3 [Patient Care, cares for acutely ill or injured patients in the FMP], MK-2 [Medical Knowledge,
4 applies critical thinking skills in patient care], PBLI-1 [Practice Based Learning and
5 Improvement, locates, appraises, and assimilates evidence from scientific studies related to the
6 patients’ health problems], C-3 [Communication, develops relationships and effectively
7 communicates with physicians, other health professionals, and health care teams], C-4
8 [Communication, utilizes technology to optimize communication], Prof-2 [Professionalism,
9 demonstrates professional conduct and accountability], Prof-4 [Professionalism, maintains
10 emotions, physical, and mental health; and pursues continual personal and professional growth],
11 SBP-2 [System-Based Practice, emphasizes patient safety], and SBP-4 [System-Based Practice,
12 coordinates team-based care].

13 c. There were also concerns with the Applicant’s outpatient Family Medicine
14 residency clinic and other outpatient rotations. “Preceptors commented on your slow progression,
15 efficiency, and effectiveness on rotations, including a noted lack of medical knowledge on core
16 medical topics like diabetes, despite prior attempts to provide education.”

17 d. On October 3, 2017, the Applicant was placed on “remediation” due to
18 competency issues in patient care, medical knowledge, and professionalism.

19 13. The Applicant’s application for licensure and the supporting documentation from the
20 residency program were reviewed on behalf of the Board. That review concluded that the
21 Applicant does not have the “ability to practice safely, competently, and independently without
22 direct supervision.” The Applicant has well-documented performance deficiencies in multiple
23 areas, that include: Patient Care, Medical Knowledge, Practice Based Learning and
24 Improvement, Communication Skills, Professionalism, and System-Based Practice. The
25 Applicant was given multiple opportunities to remediate these issues, yet he was unable to.

26 14. On or about May 16, 2019, the Board denied the Applicant’s application for
27 Physicians’ and Surgeon’s Certificate on the bases of unprofessional conduct or of any cause that
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1 would subject a licensee to revocation or suspension of his license pursuant to Business and
2 Professions Code sections 2234 (unprofessional conduct) and 2234(d) (incompetence).

3 **CAUSE FOR DENIAL OF APPLICATION**

4 15. Applicant's application is subject to denial under sections 475(a)(4) and/or 480(a)(3)
5 and/or 2234 [unprofessional conduct] and/or 2234(d) [incompetence] in that Applicant is guilty of
6 conduct which, if done by a licensee, would be grounds for suspension or revocation of license,
7 i.e. unprofessional conduct and/or conduct which indicates an unfitness to practice medicine,
8 and/or incompetence.

9 **PRAYER**

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

12 1. Denying the application of Marx P. Genovez for a Physician's and Surgeon's
13 Certificate;

14 2. If issued a probationary license, ordering Applicant to pay the Medical Board the
15 costs of probation monitoring;

16 3. If placed on probation, prohibiting Applicant from supervising physician assistants
17 and advanced practice nurses; and

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

19
20 DATED: September 4, 2019


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

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