

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

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

**Jim Rayburn Harley, M.D.**

**Physician's and Surgeon's  
Certificate No. G 55907**

**Case No. 800-2015-019419**

**Respondent.**

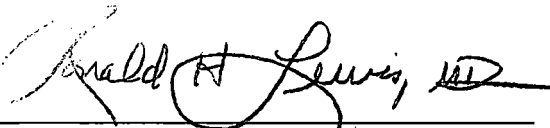
**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on July 9, 2020.**

**IT IS SO ORDERED: June 9, 2020.**

**MEDICAL BOARD OF CALIFORNIA**



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

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 JOSEPH F. MCKENNA III  
Deputy Attorney General  
4 State Bar No. 231195  
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6 San Diego, California 92186-5266  
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **JIM RAYBURN HARLEY, M.D.**  
14 **MC5075**  
**3020 Childrens Way**  
15 **San Diego, California 92123**

16 **Physician's and Surgeon's Certificate No.**  
**G55907,**

17 Respondent.

Case No. 800-2015-019419

OAH No. 2019060261

**STIPULATED SETTLEMENT AND  
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 Board  
22 of California (Board). This action was brought by then Complainant Kimberly Kirchmeyer,<sup>1</sup>  
23 solely in her official capacity. Complainant is represented in this matter by Xavier Becerra,  
24 Attorney General of the State of California, and Joseph F. McKenna III, Deputy Attorney General.
- 25 2. Respondent Jim Rayburn Harley, M.D. (Respondent) is represented in this proceeding  
26 by attorney Robert W. Frank, Esq., whose address is: 110 West A Street, Suite 1200, San Diego,  
27 California, 92101.

28 <sup>1</sup> Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

1           3.     On or about September 3, 1985, the Board issued Physician's and Surgeon's  
2 Certificate No. G55907 to Respondent. The Physician's and Surgeon's Certificate was in full  
3 force and effect at all times relevant to the charges brought in Accusation No. 800-2015-019419,  
4 and will expire on April 30, 2021, unless renewed.

5   **JURISDICTION**

6           4.     On December 13, 2018, Accusation No. 800-2015-019419 was filed before the Board,  
7 and is currently pending against Respondent. The Accusation and all other statutorily required  
8 documents were properly served on Respondent on December 13, 2018. Respondent timely filed  
9 his Notice of Defense contesting the Accusation. A true and correct copy of the Accusation is  
10 attached hereto as Exhibit A and hereby incorporated by reference as if fully set forth herein.

11   **ADVISEMENT AND WAIVERS**

12           5.     Respondent has carefully read, discussed with counsel, and fully understands the  
13 charges and allegations in the Accusation. Respondent has also carefully read, discussed with  
14 counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

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

22           7.     Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently  
23 waives and gives up each and every right set forth above.

24   **CULPABILITY**

25           8.     Respondent does not contest that, at an administrative hearing, Complainant could  
26 establish a *prima facie* case with respect to the charges and allegations contained in Accusation  
27 No. 800-2015-019419, and that he has thereby subjected his Physician's and Surgeon's  
28 Certificate No. G55907 to disciplinary action.



1 **ADDITIONAL PROVISIONS**

2 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein  
3 to be an integrated writing representing the complete, final and exclusive embodiment of the  
4 agreements of the parties in the above-entitled matter.

5 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,  
6 including copies of the signatures of the parties, may be used in lieu of original documents and  
7 signatures and, further, that such copies shall have the same force and effect as originals.

8 14. In consideration of the foregoing admissions and stipulations, the parties agree the  
9 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter  
10 the following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G55907 issued  
13 to Respondent Jim Rayburn Harley, M.D., is revoked. However, the revocation is stayed and  
14 Respondent is placed on probation for thirty-five (35) months from the effective date of the  
15 Decision on the following terms and conditions:

16 1. **EDUCATION COURSE.**

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

27 ////

28 ////

1           2.    MEDICAL RECORD KEEPING COURSE.

2           Within sixty (60) calendar days of the effective date of this Decision, Respondent shall  
3 enroll in a course in medical record keeping approved in advance by the Board or its designee.  
4 Respondent shall provide the approved course provider with any information and documents that  
5 the approved course provider may deem pertinent. Respondent shall participate in and  
6 successfully complete the classroom component of the course not later than six (6) months after  
7 Respondent's initial enrollment. Respondent shall successfully complete any other component  
8 of the course within one (1) year of enrollment. The medical record keeping course shall be at  
9 Respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

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

15           Respondent shall submit a certification of successful completion to the Board or its  
16 designee not later than fifteen (15) calendar days after successfully completing the course, or not  
17 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

18           3.    MONITORING – PRACTICE.

19           Within thirty (30) calendar days of the effective date of this Decision, Respondent shall  
20 submit to the Board or its designee for prior approval as a practice monitor, the name and  
21 qualifications of one or more licensed physicians and surgeons whose licenses are valid and in  
22 good standing, and who are preferably American Board of Medical Specialties (ABMS) certified.  
23 A monitor shall have no prior or current business or personal relationship with Respondent, or  
24 other relationship that could reasonably be expected to compromise the ability of the monitor to  
25 render fair and unbiased reports to the Board, including but not limited to any form of bartering.  
26 Unless prior approval is granted by the Board or its designee, the monitor shall be in  
27 Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent  
28 shall pay all monitoring costs.

1           The Board or its designee shall provide the approved monitor with copies of the Decision  
2 and Disciplinary Order and Accusation No. 800-2015-019419, and a proposed monitoring plan.  
3 Within fifteen (15) calendar days of receipt of the Decision and Disciplinary Order and  
4 Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the  
5 monitor has read the Decision and Disciplinary Order and the Accusation, fully understands the  
6 role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor  
7 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan  
8 with the signed statement for approval by the Board or its designee.

9           Within sixty (60) calendar days of the effective date of this Decision, and continuing  
10 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
11 Respondent shall make all records available for immediate inspection and copying on the  
12 premises by the monitor at all times during business hours and shall retain the records for the  
13 entire term of probation.

14           If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the  
15 effective date of this Decision, Respondent shall receive a notification from the Board or its  
16 designee to cease the practice of medicine within three (3) calendar days after being so notified.  
17 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring  
18 responsibility.

19           The monitor shall submit a quarterly written report to the Board or its designee which  
20 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
21 are within the standards of practice of medicine and whether Respondent is practicing medicine  
22 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the  
23 quarterly written reports to the Board or its designee within ten (10) calendar days after the end of  
24 the preceding quarter.

25           If the monitor's quarterly written reports during the first year of probation indicate that  
26 Respondent's practices are within the standards of practice of medicine and Respondent is  
27 practicing medicine safely, the practice monitor condition shall automatically terminate under this  
28 Disciplinary Order after one (1) year from the effective date of this Decision.

1           If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar  
2 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,  
3 the name and qualifications of a replacement monitor who will be assuming that responsibility  
4 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor  
5 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent  
6 shall receive a notification from the Board or its designee to cease the practice of medicine within  
7 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine  
8 until a replacement monitor is approved and assumes monitoring responsibility.

9           In lieu of a monitor, Respondent may participate in a professional enhancement program  
10 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
11 review, semi-annual practice assessment, and semi-annual review of professional growth and  
12 education. Respondent shall participate in the professional enhancement program at  
13 Respondent's expense during the term of probation.

14           4.    NOTIFICATION.

15           Within seven (7) days of the effective date of this Decision, the Respondent shall provide a  
16 true copy of this Decision and Disciplinary Order and Accusation to the Chief of Staff or the Chief  
17 Executive Officer at every hospital where privileges or membership are extended to Respondent,  
18 at any other facility where Respondent engages in the practice of medicine, including all physician  
19 and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every  
20 insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall  
21 submit proof of compliance to the Board or its designee within fifteen (15) calendar days.

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

23           5.    OBEY ALL LAWS.

24           Respondent shall obey all federal, state and local laws, all rules governing the practice of  
25 medicine in California and remain in full compliance with any court ordered criminal probation,  
26 payments, and other orders.

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1           6.    QUARTERLY DECLARATIONS.

2           Respondent shall submit quarterly declarations under penalty of perjury on forms provided  
3 by the Board, stating whether there has been compliance with all the conditions of probation.

4           Respondent shall submit quarterly declarations not later than ten (10) calendar days after the  
5 end of the preceding quarter.

6           7.    GENERAL PROBATION REQUIREMENTS.

7           Compliance with Probation Unit

8           Respondent shall comply with the Board’s probation unit.

9           Address Changes

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

15          Place of Practice

16          Respondent shall not engage in the practice of medicine in Respondent’s or patient’s place of  
17 residence, unless the patient resides in a skilled nursing facility or other similar licensed facility

18          License Renewal

19          Respondent shall maintain a current and renewed California physician’s and surgeon’s license.

20          Travel or Residence Outside California

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

24          In the event Respondent should leave the State of California to reside or to practice,  
25 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the  
26 dates of departure and return.

27          8.    INTERVIEW WITH THE BOARD OR ITS DESIGNEE.

28          Respondent shall be available in person upon request for interviews either at Respondent’s

1 place of business or at the probation unit office, with or without prior notice throughout the term  
2 of probation.

3 9. NON-PRACTICE WHILE ON PROBATION.

4 Respondent shall notify the Board or its designee in writing within fifteen (15) calendar  
5 days of any periods of non-practice lasting more than thirty (30) calendar days and within  
6 fifteen (15) calendar days of Respondent's return to practice. Non-practice is defined as any  
7 period of time Respondent is not practicing medicine as defined in Business and Professions  
8 Code sections 2051 and 2052 for at least forty (40) hours in a calendar month in direct patient  
9 care, clinical activity or teaching, or other activity as approved by the Board. If Respondent  
10 resides in California and is considered to be in non-practice, Respondent shall comply with all  
11 terms and conditions of probation. All time spent in an intensive training program which has  
12 been approved by the Board or its designee shall not be considered non-practice and does not  
13 relieve Respondent from complying with all the terms and conditions of probation. Practicing  
14 medicine in another state of the United States or Federal jurisdiction while on probation with  
15 the medical licensing authority of that state or jurisdiction shall not be considered non-practice.  
16 A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

25 Periods of non-practice for a Respondent residing outside of California will relieve  
26 Respondent of the responsibility to comply with the probationary terms and conditions with the  
27 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
28 General Probation Requirements; and Quarterly Declarations.

1           10.    COMPLETION OF PROBATION.

2           Respondent shall comply with all financial obligations (e.g., probation costs) not later than  
3 one hundred twenty (120) calendar days prior to the completion of probation. Upon successful  
4 completion of probation, Respondent's certificate shall be fully restored.

5           11.    VIOLATION OF PROBATION.

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

12          12.    LICENSE SURRENDER.

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

23          13.    PROBATION MONITORING COSTS.

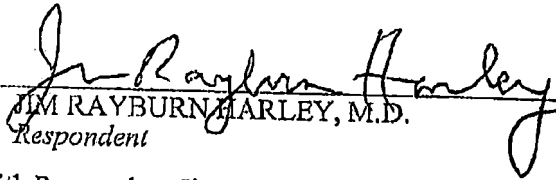
24          Respondent shall pay the costs associated with probation monitoring each and every year of  
25 probation, as designated by the Board, which may be adjusted on an annual basis. Such costs  
26 shall be payable to the Board of California and delivered to the Board or its designee no later than  
27 January 31 of each calendar year.

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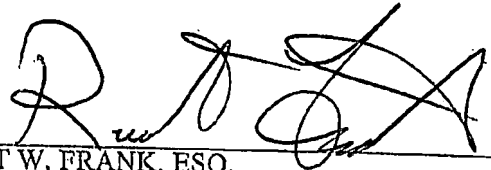
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Frank, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G55907. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 1/3/2020   
JIM RAYBURN HARLEY, M.D.  
*Respondent*

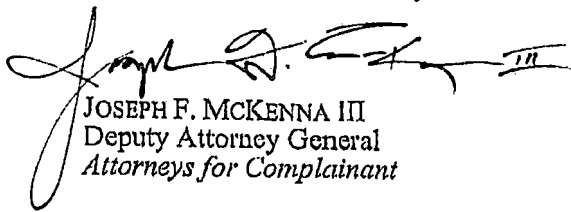
I have read and fully discussed with Respondent Jim Rayburn Harley, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1-3-2020   
ROBERT W. FRANK, ESQ.  
*Attorney for Respondent*

ENDORSEMENT

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

DATED: January 6, 2020

Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
  
JOSEPH F. MCKENNA III  
Deputy Attorney General  
*Attorneys for Complainant*

SD2018701496 / Doc.No.72081345

**EXHIBIT A**  
**Accusation No. 800-2015-019419**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 JOSEPH F. MCKENNA III  
Deputy Attorney General  
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8 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO *December 13 20 18*  
BY *[Signature]* ANALYST

10. **BEFORE THE**  
11. **MEDICAL BOARD OF CALIFORNIA**  
12. **DEPARTMENT OF CONSUMER AFFAIRS**  
13. **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:	Case No. 800-2015-019419
15 <b>JIM RAYBURN HARLEY, M.D.</b>	<b>ACCU S A T I O N</b>
16 <b>3020 Childrens Way</b>	
17 <b>MC5075</b>	
18 <b>San Diego, California 92123</b>	
19 <b>Physician's and Surgeon's Certificate</b>	
20 <b>No. G55907,</b>	
21 <b>Respondent.</b>	

22 Complainant alleges:

23 **PARTIES**

- 24 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
25 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
26 Affairs.  
27 2. On or about September 3, 1985, the Medical Board issued Physician's and Surgeon's  
28 Certificate No. G55907 to Jim Rayburn Harley, M.D. (Respondent). The Physician's and  
Surgeon's Certificate was in full force and effect at all times relevant to the charges and  
allegations brought herein and will expire on April 30, 2019, unless renewed.

JURISDICTION

1  
2       3.    This Accusation is brought before the Medical Board of California (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5       4.    Section 2227 of the Code provides that a licensee who is found guilty under the  
6 Medical Practice Act may have his or her license revoked, suspended for a period not to  
7 exceed one year, placed on probation and required to pay the costs of probation monitoring, be  
8 publicly reprimanded which may include a requirement that the licensee complete relevant  
9 educational courses, or have such other action taken in relation to discipline as the Board deems  
10 proper.

11       5.    Section 2234 of the Code states, in relevant part:

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

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

17           “(b) Gross negligence.

18           “(c) Repeated negligent acts. To be repeated, there must be two or more  
19 negligent acts or omissions. An initial negligent act or omission followed by a  
20 separate and distinct departure from the applicable standard of care shall constitute  
21 repeated negligent acts.

22           “ ...”

23       6.    Unprofessional conduct under section 2234 of the Code is conduct which breaches  
24 the rules or ethical code of the medical profession, or conduct which is unbecoming to a member  
25 in good standing of the medical profession, and which demonstrates an unfitness to practice  
26 medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.).

27       ////

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1 7. Section 2266 of the Code states:

2 "The failure of a physician and surgeon to maintain adequate and accurate  
3 records relating to the provision of services to their patients constitutes  
4 unprofessional conduct."

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Gross Negligence)

7 8. Respondent has subjected his Physician's and Surgeon's Certificate No. G55907  
8 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (b),  
9 of the Code, in that Respondent committed gross negligence in his care and treatment of Patient  
10 A, as more particularly alleged hereinafter:

11 9. **Patient A**

12 (a) On or about September 22, 2012, at approximately 1500 hours, Patient  
13 A, a then-13-year-old female, came into the Emergency Department (ED) at Rady  
14 Children's Hospital in San Diego (RCHSD) suffering from abdominal pain that  
15 had begun two days earlier.<sup>1</sup>

16 (b) Respondent treated Patient A in the ED when she arrived at RCHSD.  
17 Respondent noted that Patient A had a history of multiple medical conditions  
18 including, a history of diabetes insipidus<sup>2</sup> (DI) and Langerhans' cell histiocytosis.<sup>3</sup>  
19 For her DI condition, Patient A had been taking desmopressin<sup>4</sup>, two (2) sprays in

20 <sup>1</sup> Earlier that same day, before coming into the ED, Patient A's mother had taken her to  
21 see a pediatrician due to abdominal pain, nausea and vomiting. Patient A reported weakness in  
22 her lower extremities and dizziness. Patient A also had a blood draw and was told that her  
sodium level was 109.

23 <sup>2</sup> Diabetes insipidus is an uncommon disorder that causes an imbalance of water in the  
24 body. This imbalance leads to intense thirst even after drinking fluids (polydipsia), and excretion  
of large amounts of urine (polyuria).

25 <sup>3</sup> Langerhans cell histiocytosis (LCH) is a rare cancer that begins in LCH cells. LCH cells  
26 are a type of dendritic cell which fights infection. LCH is a disorder that primarily affects  
children, but is also found in adults of all ages.

27 <sup>4</sup> Desmopressin is used to control the amount of urine a person's kidneys make. In people  
28 with diabetes insipidus, the body does not make enough vasopressin. Desmopressin is a man-  
made form of vasopressin and is used to replace a low level of vasopressin. Desmopressin helps



1 the morning and one (1) spray in the evening. Before coming into the ED, Patient  
2 A had last taken a dose of desmopressin earlier that day in the morning. In  
3 addition, she had urinated four (4) times since her last dose when she arrived at the  
4 ED and was seen by Respondent.

5 (c) In terms of her general physical condition upon arrival to the ED,  
6 Patient A reported one (1) episode of vomiting that day; but she did not report  
7 suffering any headaches or seizures and her last menstrual period had been one  
8 month earlier.

9 (d) Respondent performed a physical examination of Patient A.  
10 Respondent documented that she was not in distress; that her mouth was moist;  
11 that her skin was warm; that she was alert and oriented to person, place and time;  
12 and that her behavior was normal. Respondent documented that Patient A was  
13 suffering from severe hyponatremia, but that she had remained asymptomatic; he  
14 documented that the only symptoms for hyponatremia were her reported weakness  
15 in legs and dizziness. Respondent did not document any concerns with  
16 dehydration, and he only listed hyponatremia and DI under the "Impression"  
17 section of his provider notes.

18 (e) Patient A's vital signs taken at the ED were within normal limits.

19 (f) Respondent ordered laboratory studies and testing including, but not  
20 limited to, i-STAT testing, sodium testing, and metabolic panels. Significantly,  
21 testing of Patient A's renal function was not indicative of dehydration.

22 (g) In the ED, Respondent ordered a large amount of rapidly administered  
23 sodium containing fluids for Patient A through the following treatments: at 1537  
24 hours, 0.9% NaCl IV bolus, 1000 mL to run over sixty (60) minutes; at 1603  
25 hours, 3% NaCl IV hypertonic saline bolus 250 mL to run over thirty (30) minutes

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28 to control increased thirst and too much urination due to these conditions, and helps prevent  
dehydration.

1 (although administered over twenty (20) minutes); and then 0.9% NaCl IV  
2 infusion at 90 mL per hour ordered at 1853 hours.

3 (h) While still under Respondent's care in the ED, Patient A's sodium  
4 levels were monitored approximately 1.25 hours and 2.25 hours respectively, after  
5 obtaining her baseline sodium levels. Respondent, notwithstanding the infrequent  
6 lab testing of Patient A's sodium levels, did not alter the fluid administration,  
7 cancel the order, or change the fluid rate. Furthermore, Respondent did not clearly  
8 document his medical decision making or rationale for ordering the volume and  
9 rate of fluid administration for Patient A given her medical condition of DI, under  
10 the totality of circumstances that he was aware of at the time he treated her.

11 (i) Respondent documented a progress note after receiving results from a  
12 comprehensive metabolic panel that were documented at or around 6:20 p.m., on  
13 the same day that Patient A came into the ED. The note included more detailed  
14 information regarding Patient A's medical condition and history of DI including,  
15 but not limited to, that she was being treated by an endocrinologist at Children's  
16 Hospital Los Angeles (CHLA); that the CHLA endocrinologist had told the  
17 patient's mother that in April 2012 her sodium level was 145; and that the CHLA  
18 endocrinologist believed the hyponatremia had developed slowly over months and  
19 was likely related to the desmopressin dosage.

20 (j) Respondent further documented that Patient A would be admitted under  
21 hospitalist service to an inpatient floor bed, rather than being admitted to a critical  
22 care unit with a qualified intensivist capable of monitoring and treating Patient A's  
23 condition appropriately. Furthermore, Respondent, notwithstanding Patient A's  
24 extremely low sodium levels at the time of her arrival in the ED, did not issue the  
25 transfer order until several hours after she had first arrived in the ED.

26 (k) Significantly, Respondent did not attempt and/or document any attempt  
27 to contact the CHLA endocrinologist treating Patient A. In fact, Respondent did  
28 not attempt and/or document any attempt to contact any medical provider at

1 CHLA to obtain any medical history, treatments, and/or lab values, or any current  
2 data from recent physical examinations, laboratory findings, and/or medication  
3 regimen for Patient A. Respondent, while ordering a large amount of rapidly  
4 administered sodium containing fluids for Patient A, primarily relied upon Patient  
5 A's mother for gathering historical information and other important data regarding  
6 Patient A's DI condition.

7 10. Respondent committed gross negligence in his care and treatment of Patient A  
8 including, but not limited to, the following:

- 9 (a) Respondent inappropriately treated Patient A for presumed dehydration  
10 when he gave her excess fluid and sodium;
- 11 (b) Respondent inappropriately ordered an excessive amount of rapidly  
12 administered sodium containing fluids for Patient A;
- 13 (c) Respondent failed to appropriately monitor Patient A's sodium levels; and  
14 (d) Respondent failed to appropriately monitor and/or alter the fluid  
15 administration, cancel the order, or change the fluid rate, according to  
16 the lab data for Patient A.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Repeated Negligent Acts)**

19 11. Respondent has further subjected his Physician's and Surgeon's Certificate  
20 No. G55907 to disciplinary action under sections 2227 and 2234, as defined in section 2234,  
21 subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care  
22 and treatment of Patient A, as more particularly alleged hereinafter:

23 12. **Patient A**

- 24 (a) Paragraphs 9 and 10, above, are hereby incorporated by reference  
25 and realleged as if fully set forth herein;
- 26 (b) Respondent failed to obtain and/or document obtaining any prior  
27 medical history and/or data from any other medical providers treating  
28 Patient A for her existing medical conditions;

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(c) Respondent failed to appropriately understand Patient A's disease process and its relationship to Respondent's treatment orders; and

(d) Respondent, given the high risk clinical circumstances faced by Patient A, failed to appropriately and timely place Patient A when he admitted her under hospitalist service at RCHSD.

**THIRD CAUSE FOR DISCIPLINE**

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

13. Respondent has further subjected his Physician's and Surgeon's Certificate No. G55907 to disciplinary action under sections 2227 and 2234, as defined in section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records in connection with his care and treatment of Patient A, as more particularly alleged hereinafter:

**Patient A**

(a) Paragraphs 9 and 10, above, are hereby incorporated by reference and realleged as if fully set forth herein

**FOURTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct)**

14. Respondent has further subjected his Physician's and Surgeon's Certificate No. G55907 to disciplinary action under sections 2227 and 2234 of the Code, in that Respondent has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 9 through 13, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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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 No. G55907, issued to Respondent Jim Rayburn Harley, M.D.;
2. Revoking, suspending or denying approval of Respondent Jim Rayburn Harley, M.D.'s, authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced practice nurses;
3. Ordering Respondent Jim Rayburn Harley, M.D., to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and
4. Taking such other and further action as deemed necessary and proper.

DATED:  
December 13, 2018

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

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