

**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.

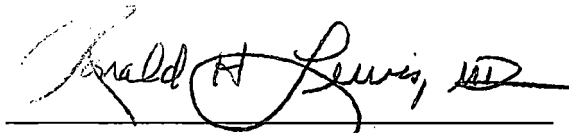
DECISION

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
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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**
15 **3020 Childrens Way**
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,¹
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 ¹ Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

3. On or about September 3, 1985, the Board issued Physician's and Surgeon's Certificate No. G55907 to 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. 800-2015-019419, and will expire on April 30, 2021, unless renewed.

JURISDICTION

4. On December 13, 2018, Accusation No. 800-2015-019419 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 December 13, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of the Accusation is attached hereto as Exhibit A and hereby incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

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

6. 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, having been fully advised of same by his counsel.

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

CULPABILITY

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

9. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2015-019419 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

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

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

11

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

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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.

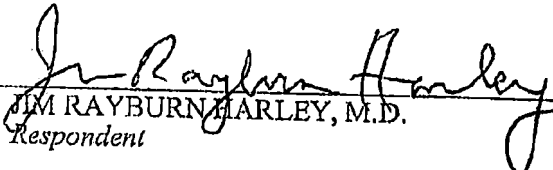
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ACCEPTANCE

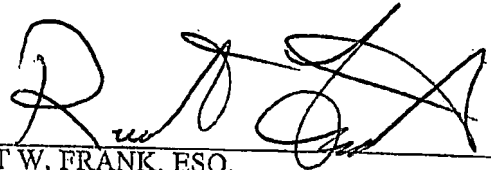
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Frank, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G55907. I enter into this Stipulated Settlement 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

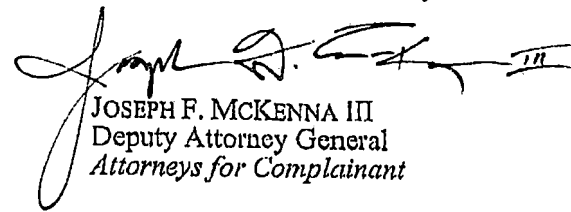
ENDORSEMENT

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

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EXHIBIT A
Accusation No. 800-2015-019419

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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
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2015-019419

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

ACCU S A T I O N

17 Physician's and Surgeon's Certificate
No. G55907,

18 Respondent.

19
20 Complainant alleges:

21 PARTIES

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

25 2. On or about September 3, 1985, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G55907 to Jim Rayburn Harley, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges and
28 allegations brought herein and will expire on April 30, 2019, unless renewed.

JURISDICTION

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

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

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

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

"(b) Gross negligence.

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

" ..."

6. Unprofessional conduct under section 2234 of the Code is 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. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.).

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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.¹

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 insipidus² (DI) and Langerhans' cell histiocytosis.³
19 For her DI condition, Patient A had been taking desmopressin⁴, two (2) sprays in

20 ¹ 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 ² 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 ³ 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 ⁴ 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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27 to control increased thirst and too much urination due to these conditions, and helps prevent
28 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;

- 1 (c) Respondent failed to appropriately understand Patient A's disease
2 process and its relationship to Respondent's treatment orders; and
3 (d) Respondent, given the high risk clinical circumstances faced by Patient
4 A, failed to appropriately and timely place Patient A when he admitted
5 her under hospitalist service at RCHSD.

6 **THIRD CAUSE FOR DISCIPLINE**

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

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

12 **Patient A**

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

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

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

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1 **PRAYER**

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

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. G55907, issued to
5 Respondent Jim Rayburn Harley, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Jim Rayburn Harley,
7 M.D.'s, authority to supervise physician assistants pursuant to section 3527 of the Code, and
8 advanced practice nurses;

9 3. Ordering Respondent Jim Rayburn Harley, M.D., to pay the Medical Board of
10 California the costs of probation monitoring, if placed on probation; and

11 4. Taking such other and further action as deemed necessary and proper.
12

13 DATED:
14 December 13, 2018


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

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