

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

In the Matter of the Accusation  
Against:

Gary S. Feldman, M.D.

Case No. 800-2018-043041

Physician's & Surgeon's  
Certificate No G58766

Respondent

DECISION

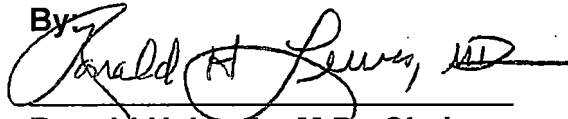
The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on SEP 02 2020

IT IS SO ORDERED AUG 03 2020

MEDICAL BOARD OF CALIFORNIA

By



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 BRIAN ROBERTS  
Deputy Attorney General  
4 State Bar No. 282868  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 269-6614  
Facsimile: (916) 731-2117  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **GARY S. FELDMAN, M.D.**  
14 **20750 Ventura Blvd., Suite 210**  
15 **Woodland Hills, CA 91364**

16 **Physician's and Surgeon's Certificate No. G**  
**58766,**

17 Respondent.

Case No. 800-2018-043041

OAH No. 2020020909

18  
19 **STIPULATED SETTLEMENT AND**  
20 **DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical  
25 Board of California (Board). She brought this action solely in her official capacity and is  
26 represented in this matter by Xavier Becerra, Attorney General of the State of California, by  
27 Brian Roberts, Deputy Attorney General.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation  
3 No. 800-2018-043041, if proven at a hearing, constitute cause for imposing discipline upon his  
4 Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case  
6 for the charges in the Accusation, and that Respondent hereby gives up his right to contest those  
7 charges.

8 11. Respondent does not contest that, at an administrative hearing, complainant could  
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-  
10 2018-043041, a true and correct copy of which is attached hereto as Exhibit A, and that he has  
11 thereby subjected his Physician's and Surgeon's Certificate, No. G 58766 to disciplinary action.

12 12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
13 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
14 Disciplinary Order below.

15 CONTINGENCY

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

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



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Failure to successfully complete the Professionalism Program outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. 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: June 11<sup>th</sup> 2020 G. S. Feldman M.D.  
GARY S. FELDMAN, M.D.  
*Respondent*

I have read and fully discussed with Respondent Gary S. Feldman, 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: 6/12/2020 [Signature]  
PETER R. OSINOFF, ESQ.  
*Attorney for Respondent*

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**ENDORSEMENT**

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

DATED: 6/12/2020

Respectfully submitted,

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



BRIAN ROBERTS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2018-043041**



1 XAVIER BECERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 BRIAN ROBERTS  
Deputy Attorney General  
4 State Bar No. 282868  
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5 300 So. Spring Street, Suite 1702  
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6 Telephone: (213) 269-6614  
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7 *Attorneys for Complainant*

**FILED**  
**STATE OF CALIFORNIA**  
**MEDICAL BOARD OF CALIFORNIA**  
SACRAMENTO July 9 2019  
BY ANDREA CEREMIA ANALYST

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

12 In the Matter of the Accusation Against:

Case No. 800-2018-043041

13 **Gary S. Feldman, M.D.**  
14 **20750 Ventura Blvd., Suite 210**  
**Woodland Hills, CA 91364**

**ACCUSATION**

15 **Physician's and Surgeon's Certificate**  
16 **No. G 58766,**

Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 29, 1986, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number G 58766 to Gary S. Feldman, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on January 31, 2020, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following  
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2227 of the Code states:

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

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

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

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

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

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

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

24 5. Section 2234 of the Code, states:

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

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

3           “(b) Gross negligence.

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

7           “(1) An initial negligent diagnosis followed by an act or omission medically appropriate for  
8 that negligent diagnosis of the patient shall constitute a single negligent act.

9           “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
11 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the  
12 applicable standard of care, each departure constitutes a separate and distinct breach of the  
13 standard of care.

14           “(d) Incompetence.

15           “(e) The commission of any act involving dishonesty or corruption which is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

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

18           “(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of  
21 the proposed registration program described in Section 2052.5.

22           “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
24 who is the subject of an investigation by the board.”

25           6. Section 2236 of the Code states:

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

3 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the  
4 Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor  
5 immediately upon obtaining information that the defendant is a licensee. The notice shall identify  
6 the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall  
7 also notify the clerk of the court in which the action is pending that the defendant is a licensee,  
8 and the clerk shall record prominently in the file that the defendant holds a license as a physician  
9 and surgeon.

10 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours  
11 after the conviction, transmit a certified copy of the record of conviction to the board. The  
12 division may inquire into the circumstances surrounding the commission of a crime in order to fix  
13 the degree of discipline or to determine if the conviction is of an offense substantially related to  
14 the qualifications, functions, or duties of a physician and surgeon.

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

18 7. California Code of Regulations, title 16, section 1360, states:

19 “For the purposes of denial, suspension or revocation of a license, certificate or permit  
20 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
21 considered to be substantially related to the qualifications, functions or duties of a person holding  
22 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
23 evidences present or potential unfitness of a person holding a license, certificate or permit to  
24 perform the functions authorized by the license, certificate or permit in a manner consistent with  
25 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
26 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
27 violation of, or conspiring to violate any provision of the Medical Practice Act.”

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1           8.     Section 490 of the Code states:

2           “(a) In addition to any other action that a board is permitted to take against a licensee, a  
3 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
4 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
5 or profession for which the license was issued.

6           “(b) Notwithstanding any other provision of law, a board may exercise any authority to  
7 discipline a licensee for conviction of a crime that is independent of the authority granted under  
8 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
9 of the business or profession for which the licensee’s license was issued.

10          “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
11 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
12 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
13 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
14 made suspending the imposition of sentence, irrespective of a subsequent order under the  
15 provisions of Section 1203.4 of the Penal Code.

16          “(d) The Legislature hereby finds and declares that the application of this section has been  
17 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th  
18 554, and that the holding in that case has placed a significant number of statutes and regulations  
19 in question, resulting in potential harm to the consumers of California from licensees who have  
20 been convicted of crimes. Therefore, the Legislature finds and declares that this section  
21 establishes an independent basis for a board to impose discipline upon a licensee, and that the  
22 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change  
23 to, but rather are declaratory of, existing law.”

24           9.     Section 493 of the Code states:

25          “Notwithstanding any other provision of law, in a proceeding conducted by a board within  
26 the department pursuant to law to deny an application for a license or to suspend or revoke a  
27 license or otherwise take disciplinary action against a person who holds a license, upon the  
28 ground that the applicant or the licensee has been convicted of a crime substantially related to the

1 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
2 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
3 and the board may inquire into the circumstances surrounding the commission of the crime in  
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
5 qualifications, functions, and duties of the licensee in question.

6 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
7 'registration.'"

### 8 FACTUAL SUMMARY

9 10. On August 10, 2018, in the case entitled *The People of the State of California v. Gary*  
10 *Feldman*, case number 8VW03068, in the Superior Court of California, County of Los Angeles,  
11 Respondent, upon his plea of nolo contendere, was convicted of battery upon an intimate partner,  
12 in violation of Penal Code section 243(e)(1), a misdemeanor. The remaining criminal charge was  
13 dismissed as part of Respondent's plea agreement with the Los Angeles District Attorney's  
14 Office. Respondent was placed on three years of supervised probation with the following terms  
15 and conditions:

- 16 A. Serve one day in the Los Angeles county jail.
- 17 B. Perform 200 hours of community service.
- 18 C. Do not own, use or posses dangerous or deadly weapons, including firearms or  
19 other concealable weapons.
- 20 D. Do not use or threaten to use force or violence against any person.
- 21 E. Obey any protective order.
- 22 F. Pay fine and fees.
- 23 G. Obey all laws and orders of the court.
- 24 H. Complete a 52-week domestic violence treatment program.

25 11. The circumstances leading to the above-referenced conviction are as follows:

26 A. On or about March 21, 2018, at approximately 2:25 p.m., officers from the Los  
27 Angeles Police Department were approached by the victim in the 3900 block of Hopevale Drive.

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DATED: July 9, 2019

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

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