

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

In the Matter of the First Amended
Accusation Against:

Mina Nessim Saad Mikhail, M.D.

Physician's and Surgeon's
Certificate No. A 51300

Respondent.

Case No. 800-2016-023049

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "NAME" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "name" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the name will conform to the Board's issued name.

IT IS HEREBY ORDERED that the name contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "Mina Nessim Saad Mikhail, M.D.".

October 29, 2020



Kristina D. Lawson, J.D., Chair
Panel B

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

In the Matter of the First Amended
Accusation
Against:

Mina Messim Saad Mikhail, M.D.

Physician's & Surgeon's
Certificate No A51300

Respondent.

Case No. 800-2016-023049

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 October 23, 2020.

IT IS SO ORDERED September 23, 2020.

MEDICAL BOARD OF CALIFORNIA

By:



Kristina D. Lawson, J.D., Chair
Panel B

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 TRINA L. SAUNDERS
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7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation
12 Against:

13 MINA NESSIM MIKHAIL, M.D.
14 6171 Century Hill Drive
Riverside, CA 92506

15 Physician's and Surgeon's Certificate No. A
16 51300,

17 Respondent.

Case No. 800-2016-023049

OAH No. 2019100466

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

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

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1 2. Respondent Mina Nessim Mikhail, M.D. (Respondent) is represented in this
2 proceeding by attorney Raymond J. McMahon, whose address is, 5440 Trabuco Road,
3 Irvine, CA 92620.

4 3. On or about October 20, 1992, the Board issued Physician's and Surgeon's Certificate
5 No. A 51300 to Mina Nessim Mikhail, M.D. (Respondent). The Physician's and Surgeon's
6 Certificate was in full force and effect at all times relevant to the charges brought in First
7 Amended Accusation No. 800-2016-023049, and will expire on August 31, 2020, unless renewed.

8 **JURISDICTION**

9 First Amended Accusation No. 800-2016-023049 was filed before the Board, and is
10 currently pending against Respondent. The First Amended Accusation and all other statutorily
11 required documents were properly served on Respondent on August 20, 2019. Respondent timely
12 filed his Notice of Defense contesting the Accusation.

13 4. A copy of Accusation No. 800-2016-023049 is attached as exhibit A and incorporated
14 herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 5. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2016-023049. Respondent has also carefully read,
18 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

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

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

28 ///

1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 800-2016-023049, if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician's and Surgeon's Certificate.

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

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

12 **CONTINGENCY**

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

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

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

1 **DISCIPLINARY ORDER**

2 A. **PUBLIC REPRIMAND**

3 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 51300
4 issued to Respondent Mina Nessim Mikhail, M.D. is publicly reprimanded pursuant to California
5 Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which
6 is issued in connection with Respondent's care and treatment of two patients, as set forth in First
7 Amended Accusation No. 800-2018-041785, is as follows:

8 *In 2012, you were negligent when you failed to confirm that a hospital had made a timely*
9 *report of a seizure disorder for patient A, who was diagnosed with a seizure in the hospital*
10 *emergency department, and later evaluated by you in your office.*

11 *In 2012 -2015, while prescribing controlled substances for pain to patient B, you did not*
12 *perform complete periodic reviews and risk assessments of the harm presented by the long-term*
13 *opiate and muscle relaxant therapy provided.*

14 **IT IS FURTHER ORDERED THAT:**

15 1. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective
16 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
17 advance by the Board or its designee. Respondent shall provide the approved course provider
18 with any information and documents that the approved course provider may deem pertinent.
19 Respondent shall participate in and successfully complete the classroom component of the course
20 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
21 complete any other component of the course within one (1) year of enrollment. The prescribing
22 practices course shall be at Respondent's expense and shall be in addition to the Continuing
23 Medical Education (CME) requirements for renewal of licensure.

24 A prescribing practices course taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the course would have
27 been approved by the Board or its designee had the course been taken after the effective date of
28 this Decision.

1 Respondent shall submit a certification of successful completion to the Board or its
2 designee not later than 15 calendar days after successfully completing the course, or not later than
3 15 calendar days after the effective date of the Decision, whichever is later.

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

14 A professionalism program taken after the acts that gave rise to the charges in the
15 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
16 or its designee, be accepted towards the fulfillment of this condition if the program would have
17 been approved by the Board or its designee had the program been taken after the effective date of
18 this Decision.

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

22 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
23 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
24 advance by the Board or its designee. Respondent shall provide the approved course provider
25 with any information and documents that the approved course provider may deem pertinent.
26 Respondent shall participate in and successfully complete the classroom component of the course
27 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
28 complete any other component of the course within one (1) year of enrollment. The medical

1 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
2 Medical Education (CME) requirements for renewal of licensure.

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

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the course, or not later than
10 15 calendar days after the effective date of the Decision, whichever is later.

11 4. Any failure to comply with the above terms constitutes unprofessional conduct.

12 ACCEPTANCE

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
14 discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect
15 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
16 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
17 Decision and Order of the Medical Board of California.

18
19 DATED: 02/20/2020 *Mina N. Mikhail*
20 MINA NESSIM MIKHAIL, M.D.
Respondent

21
22 I have read and fully discussed with Respondent Mina Nessim Mikhail, M.D. the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25
26 DATED: February 21, 2020 *Raymond J. McMahon*
27 RAYMOND J. MCMAHON
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: *February 24, 2020*

Respectfully submitted,

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


TRINA L. SAUNDERS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2016-023049

1 XAVIER BECERRA
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2 ROBERT MCKIM BELL
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 20, 2019
BY: *[Signature]* ANALYST

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

13 In the Matter of the First Amended Accusation
Against:
14 MINA NESSIM MIKHAIL, M.D.
15 4100 Central Ave., Ste. 106
16 Riverside, California 92506-2930
17 Physician's and Surgeon's Certificate A 51300,
18 Respondent.

Case No. 800-2016-023049
FIRST AMENDED ACCUSATION

19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in
23 her official capacity as the Executive Director of the Medical Board of California (Board).
24 2. On October 20, 1992, the Board issued Physician's and Surgeon's Certificate Number
25 A 51300 to Mina Nessim Mikhail, M.D. (Respondent). That license was in full force and effect
26 at all times relevant to the charges brought herein and will expire on August 31, 2020, unless
27 renewed.

28 //

1 **JURISDICTION**

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

5 4. Section 2227 of the Code states:

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

10 "(1) Have his or her license revoked upon order of the board.

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

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

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

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

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

25 5. Section 2234 of the Code, states:

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

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 the
21 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 2266 of the Code states: “The failure of a physician and surgeon to maintain
26 adequate and accurate records relating to the provision of services to their patients constitutes
27 unprofessional conduct.
28

1 7. Health and Safety Code Section 103900, subdivision (a) states: "Every physician and
2 surgeon shall report immediately to the local health officer in writing, the name, date of birth, and
3 address of every patient at least 14 years of age or older whom the physician and surgeon has
4 diagnosed as having a case of a disorder characterized by lapses of consciousness. However, if a
5 physician and surgeon reasonably and in good faith believes that the reporting of a patient will
6 serve the public interest, he or she may report a patient's condition even if it may not be required
7 under the department's definition of disorders characterized by lapses of consciousness pursuant
8 to subdivision (d)."

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Repeated Negligent Acts - Patients A and B)

11 8. Respondent Mina Nessim Mikhail, M.D. is subject to disciplinary action under Code
12 section 2234, subdivision (c) for being repeatedly negligent in his care of Patient A. He failed to
13 appropriately manage the patient's seizure disorder, did not monitor the effectiveness of the
14 prescribed anti-seizure treatment or completely assess its adverse effects, and he failed to report
15 Patient A's lapse of consciousness to the required public health agency in a timely manner. The
16 circumstances are as follows:

17 **Patient A**

18 9. Patient A is a 36-year-old male, with a history of childhood seizures, recurrent
19 Hodgkin's Lymphoma in remission, status post stem cell transplant, and chemotherapy. He
20 presented to Riverside Community Hospital on January 26, 2004 due to seizures and a tongue
21 laceration. He received a head CT. It was negative. He was admitted under the care of
22 Respondent, who was the hospitalist on call. Respondent performed a history and physical. No
23 focal neurologic deficits were documented. Respondent's assessment was status epilepticus,
24 poorly controlled seizures, right upper quadrant pain, increased liver function tests, rule out
25 gallbladder disease, hepatitis vs. side effect of chemotherapy, and Hodgkin's Lymphoma.
26 Respondent's treatment plan included anti-seizure therapy, benzodiazepines as needed, seizure
27 precautions, EEG, abdominal ultrasound and neurology consultation. EEG showed no seizure
28 activity. Head CT was normal. Abdominal ultrasound was negative.

1 10. On January 29, 2004, Respondent discharged Patient A with instructions to follow-up
2 with his primary care physician, to follow-up with neurology, outpatient CBC, liver function tests
3 and Depakote level. His discharge medications were Depakote (new) and Dilantin on a tapering
4 schedule for two weeks, antibiotics and anesthetic.

5 11. Approximately three years later, on September 7, 2007, Patient A transferred his
6 primary care to Respondent.

7 12. On September 7, 2007, Respondent documented Hodgkin's lymphoma in remission
8 and stable seizure disorder. Patient A's medications were not documented.

9 13. Patient A presented on February 15, 2008, for complaints of palpitations and leaning
10 to one side. No neurologic exam was documented. Respondent's assessment was, "Lymphoma
11 in remission, seizure disorder, controlled on Topamax, multiple complaints, possible side effects
12 of Topamax."

13 14. Patient A presented to Respondent's office on May 23, 2008, for constipation.
14 Respondent's assessment was mild constipation, lymphoma in remission for three years and
15 seizure, stable on Topamax nightly. His management plan included Metamucil, high fiber diet,
16 follow up with oncology and continuation of Topamax nightly.

17 15. Patient A presented to Riverside Community Hospital on May 31, 2012, after a
18 mechanical fall. No loss of consciousness or seizure was documented. The prehospital report
19 states that Patient A, "seemed a little out of it," when his supervisor found him in the stairwell.
20 He was found to have a minor closed head injury, abrasions to the scalp and right forearm, and a
21 non-displaced right radial head fracture. Patient A was discharged home with a prescription for
22 Naproxen, oral narcotics and instructions to follow-up with his primary care physician.

23 16. Patient A presented to Respondent's office on June 6, 2012, for a follow-up after his
24 emergency room visit and for a wrist fracture. His neurologic exam was documented as normal.
25 Respondent's assessment was seizure disorder, right radial head fracture, wrist sprain, and
26 Lymphoma. Respondent's management plan included laboratory analysis and follow-up wrist x-
27 ray. Topamax 100 mg twice a day was prescribed. There was no documentation regarding any
28 change in the Topamax dosing. Drug levels were ordered.

1 17. Patient A was admitted to Riverside Community Hospital on November 15, 2012,
2 with a witnessed seizure. His prehospital care report indicated altered level of consciousness
3 witnessed by a co-worker. His last seizure was documented as occurring one year prior. No
4 neurologic abnormalities were identified on physical examination. His medication was listed as
5 Topamax 100 mg daily. Laboratory tests were remarkable for low platelets. Patient A's head CT
6 was normal. The documented clinical impression was possible seizure. Patient A was discharged
7 home in stable condition with recommendations to follow-up with Respondent and a neurologist.
8 Information regarding recurrent seizures was given to Patient A.

9 18. Patient A again presented to Respondent's office on November 19, 2012, for a
10 follow-up after his emergency room visit with a chief complaint of confusion. Patient A reported
11 a loss of cognitive function and confusion. No neurologic exam was documented. Respondent's
12 assessment was Hodgkin's Lymphoma, seizure disorder, periodic cognitive dysfunction, side
13 effect of Topamax vs. seizure. He documented a normal CT from the emergency room
14 evaluation. Respondent's management plan included referral to neurology for further diagnostic
15 studies, and possible adjustment of anti-seizure therapy. Topamax 100 mg twice a day was
16 prescribed. There was no change in Patient A's management. No drug levels were obtained.
17 Patient A was scheduled for a follow-up in two weeks. Respondent did not submit any
18 documentation to the local public health agency notifying them of the risk that Respondent posed
19 if he continued to drive. There is no evidence in the record that Respondent informed Patient A
20 of driving restrictions he should adhere to. Furthermore, Respondent provided Patient A with
21 documentation authorizing him to return to regular work on December 5, 2012.

22 19. On December 28, 2012, Patient A was involved in a motor vehicle accident. The
23 accident resulted in two fatalities and injuries to two other pedestrians.

24 20. On January 3, 2013, Patient A presented to Respondent's office following his car
25 accident. He reported a loss of consciousness while driving. Respondent's assessment included
26 situational mixed anxiety and depressive disorder, insomnia, seizure disorder, muscle spasm,
27 status post motor vehicle accident, possible seizure, side effect of Topamax. Respondent's
28 management plan included laboratory studies, referrals to psychiatry and neurology with possible

1 further diagnostic studies including MRI and EEG. Respondent prescribed Topamax 100 mg
2 twice a day.

3 21. Respondent was repeatedly negligent as follows: (1) Respondent failed to
4 appropriately manage the patient's seizure disorder; (2) Respondent did not monitor the
5 effectiveness of the prescribed anti-seizure treatment or completely assess its adverse effects; and
6 (3) Respondent failed to report Patient A's lapse of consciousness/file a Confidential Morbidity
7 Report with the appropriate public health agency timely, which placed Patient A and the public at
8 risk.

9 Patient B

10 22. At the time of her death on June 7, 2015, Patient B was a 48-year-old female with a
11 history of Addison's disease, Grave's disease, hypertension, major depression, anxiety, previous
12 thyroidectomy, gastric bypass, cholecystectomy, hysterectomy, and bilateral salpingo-
13 oophorectomy.

14 23. Respondent provided outpatient treatment to Patient B from October 24, 2007
15 through June 3, 2015.

16 24. Respondent provided controlled substances, including opiates, muscle relaxants, and
17 benzodiazepines to Patient B over the course of her treatment. Prescriptions for these
18 medications were refilled regularly between 2011 and 2015.

19 25. Patient B presented to Respondent on June 27, 2012. During that visit, Respondent
20 discussed a weight loss goal of 10 pounds with increased activity and home blood pressure
21 monitoring. Tramadol, Flexeril, Ativan, and Ambien were continued.

22 26. Patient B presented to Respondent on July 9, 2012, for a follow-up visit for her blood
23 pressure, panic attacks, and anxiety. A psychiatric and musculoskeletal exam were both
24 documented as normal.

25 27. On August 13, 2012, Patient B presented for a follow-up visit. Respondent's
26 assessment included major depression and anxiety. Respondent increased Patient B's prescribed
27 dosage of antidepressant medication. Her prescriptions for Tramadol, Flexeril, Ativan and
28 Ambien were continued.

1 28. On September 30, 2012, Patient B presented to Respondent with complaints of right
2 knee pain. Right knee tenderness with effusion was documented. Respondent's assessment
3 included knee pain, effusion. Respondent's management plan included bracing, Motrin, and
4 referral to orthopedic surgery, if not better. An x-ray documented, "no fracture."

5 29. On December 10, 2013, Patient B underwent elective knee surgery.

6 30. On March 6, 2014, Patient B presented to Respondent with ankle pain. Respondent
7 diagnosed tendonitis and menopausal disorder. Respondent continued Patient B's pain
8 medications and started oral estrogen.

9 31. On July 7, 2014, Patient B presented to Respondent with complaints of anxiety.
10 Respondent's assessment included major depression with anxiety. Respondent changed the
11 previously prescribed Zoloft to Brintellix. Patient B's Ativan prescription was increased to 1 mg
12 every 8 hours, as needed for anxiety.

13 32. On October 9, 2014, Patient B presented to Respondent for hypertension and knee
14 pain. Respondent documented, "orthopedic surgery evaluation by Dr. Suzuki." Respondent's
15 assessment included Addison's disease, Onychomycosis, and tendonitis. Respondent's
16 management plan included laboratory evaluation, oral antifungal therapy, screening
17 mammography, and orthopedic surgery follow-up for knee and ankle problem. Respondent
18 continued Patient B on Norco prn. He changed Patient B's Ambien to Restoril.

19 33. On October 30, 2014, Patient B signed an agreement for long-term controlled
20 substances therapy.

21 34. On December 22, 2014, Patient B presented to Respondent with complaints of knee
22 pain. Respondent documented a normal musculoskeletal exam. Respondent's assessment
23 included Addison's disease, hypertension, hypothyroidism, hypokalemia, knee pain, tendonitis,
24 and major depression. Respondent's management plan included continuation of Sertraline, start
25 Celebrex, and laboratory evaluation.

26 35. On March 10, 2015, Patient B presented with knee pain. Respondent documented
27 right knee tenderness with mild effusion. Respondent's assessment included Addison's disease,
28 hypertension, hypokalemia, hypothyroidism, and joint pain. Respondent's management plan

1 included increase in Vicodin dose, addition of topical Voltaren gel, ice, changing Meloxicam to
2 Celebrex, and discontinuation of Temazepam and Premarin.

3 36. On June 3, 2015, Patient B presented to Respondent for the last time. She had
4 complaints of a problem with her finger, and hypertension. Her medication list included
5 Amlodipine, Benazepril, Carisoprodol, Celebrex, Cephalexin, Escitalopram, Fludrocortisone,
6 Fluocinolone cream, Gabapentin, Hydrochlorothiazide, Hydrocortisone, Levothyroxine,
7 Lidocaine patch, Lorazepam, Meloxicam, Ondansetron, Pantoprazolone, Potassium Chloride,
8 Premarin, Sertraline, Terbinafine, Tramadol, Vicodin HP, Voltaren gel, and Zolpidem. Patient
9 B's vital signs were documented as normal. Left middle finger paronychia was noted.
10 Respondent's assessment was Acute Paronychia and Addison's disease. Respondent's
11 management plan included oral antibiotics and continuation of current medications.

12 37. On June 7, 2015, Patient B's husband found her in bed, unresponsive. The cause of
13 death was determined to be mixed drug intoxication (narcotics, Tramadol, Doxylamine,
14 Carisoprodol, Zolpidem, Sertraline, Diphenhydramine, Citalopram, Hydroxyzine, Lorazepam).
15 Patient B's manner of death was determined to be an accidental overdose of prescription
16 medication.

17 38. Respondent was negligent in the care of Patient B as follows: (1) Respondent
18 prescribed controlled substances for pain without conducting a complete pain assessment and
19 preparing a comprehensive treatment plan; and (2) While prescribing controlled substances for
20 pain, Respondent performed incomplete periodic reviews and assessments of the harm presented
21 by the long-term opiate and muscle relaxant therapy he provided.

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Failure to Maintain Adequate and Accurate Records)

24 39. By reason of the facts set forth above and in the First Cause for Discipline,
25 Respondent is subject to disciplinary action under Code section 2266 for failure to maintain
26 adequate and accurate records in his care of Patients A and B.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct: Violation of Health and Safety Code Section 103900)

3 40. Respondent's license is subject to disciplinary action under Health and Safety Code
4 section 103900, in that Respondent failed to immediately report Respondent's health condition to
5 the local health officer, following Patient A's office visit of November 19, 2012.


6 **PRAYER**

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

- 9 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 51300,
10 issued to Mina Nessim Mikhail, M.D.;
- 11 2. Revoking, suspending or denying approval of his authority to supervise physician
12 assistants and advanced practice nurses;
- 13 3. If placed on probation, ordering him to pay the Board the costs of probation
14 monitoring; and
- 15 4. Taking such other and further action as deemed necessary and proper.

16 DATED:

17
18 August 20, 2019

19 
20 KIMBERLY KIRCHMEYER
21 Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California

25 *Complainant*

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