

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

In the Matter of the Accusation Against:

Mark Wilfred Tamarin, M.D.

Physician's and Surgeon's
Certificate No. A 38807

Respondent.

Case No. 800-2017-034847


DECISION

The attached Stipulated Surrender of License and 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 18, 2022.

IT IS SO ORDERED October 11, 2022.

MEDICAL BOARD OF CALIFORNIA



William Prasifka
Executive Director

1 ROB BONTA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRIS LEONG
Deputy Attorney General
4 State Bar No. 141079
300 South Spring Street, Suite 1702
5 Los Angeles, California 90013
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7 Attorneys for Complainant

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. 800-2017-034847

13 MARK WILFRED TAMARIN, M.D.

OAH No. 2021020615

14 Post Office Box 2170
Manhattan Beach, California 90267

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Physician's and Surgeon's Certificate No. A
38807

16 Respondent.
17

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. William Prasifka (Complainant) is the Executive Director of the Medical Board of
22 California (Board). He brought this action solely in his official capacity and is represented in this
23 matter by Rob Bonta, Attorney General of the State of California, by Chris Leong, Deputy
24 Attorney General.

25 2. Mark Wilfred Tamarin, M.D. (Respondent) is represented in this proceeding by
26 attorney Donald B. Marks of 10100 Santa Monica Boulevard, Suite 300, Los Angeles, California
27 90067.

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1 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
2 of Respondent's license history with the Board.

3 2. Respondent shall lose all rights and privileges as a physician and surgeon in
4 California as of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
9 comply with all the laws, regulations and procedures for reinstatement of a revoked or
10 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
11 contained in Accusation No. 800-2017-034847 shall be deemed to be true, correct and admitted
12 by Respondent when the Board determines whether to grant or deny the petition.

13 5. If Respondent should ever apply or reapply for a new license or certification, or
14 petition for reinstatement of a license, by any other health care licensing agency in the State of
15 California, all of the charges and allegations contained in Accusation, No. 800-2017-034847 shall
16 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
17 Issues or any other proceeding seeking to deny or restrict licensure.

18 **ACCEPTANCE**

19 I have carefully read the above Stipulated Surrender of License and Order and have fully
20 discussed it with my attorney Donald B. Marks. I understand the stipulation and the effect it will
21 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
22 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
23 Decision and Order of the Medical Board of California.

24 DATED: JULY 10, 2021


25 MARK WILFRED TAMARIN, M.D.
26 Respondent

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By correspondence [Signature]

I have read and fully discussed with Respondent Mark Wilfred Tamarin, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 7/16/11

[Signature]
DONALD B. MARKS
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 7-16-21

Respectfully submitted,
ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

Chris Leong
CHRIS LEONG
Deputy Attorney General
Attorneys for Complainant

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Stipulated Surrender - SDAG Reviewed.docx

Exhibit A
Accusation No. 800-2017-034847

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 800-2017-034847

12 Mark Wilfred Tamarin, M.D.
13 P.O. Box 2170
Manhattan Beach, California 90267

ACCUSATION

14 Physician's and Surgeon's Certificate
15 A 38807,

16 Respondent.

17
18 **PARTIES**

19 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
20 as the Interim Executive Director of the Medical Board of California (Board).

21 2. On July 19, 1982, the Board issued Physician's and Surgeon's Certificate Number
22 A 38807 to Mark Wilfred Tamarin, M.D. (Respondent). That license was in full force and effect
23 at all times relevant to the charges brought herein and expired on December 31, 2019.

24 **JURISDICTION**

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

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1 negligent acts or omissions. An initial negligent act or omission followed by a
2 separate and distinct departure from the applicable standard of care shall constitute
3 repeated negligent acts.

4 (1) An initial negligent diagnosis followed by an act or omission medically
5 appropriate for that negligent diagnosis of the Patient shall constitute a single
6 negligent act.

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

12 (d) Incompetence.

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

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

18 (g) The failure by a certificate holder, in the absence of good cause, to attend
19 and participate in an interview by the Board. This subdivision shall only apply to a
20 certificate holder who is the subject of an investigation by the Board.

21 7. Section 2236 of the Code states:

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

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

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

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

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8. Section 118 of the Code provides:

(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such a withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any such ground.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by the board in the department, or its suspension, forfeiture or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

9. Section 490 of the Code states:

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

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

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

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

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10. Section 493 of the Code states in relevant part:

(a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

...

11. California Code of Regulations, title 16, Section 1360 states:

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

FACTUAL ALLEGATIONS

12. On or about June 6, 2017, in the case entitled the *United States of America v. Mark Wilfred Tamarin*, U.S District Court Case No. CR 17-344 DSF, an indictment was filed against Respondent alleging health care fraud and wire fraud, in violation of 18 U.S.C. sections 1343 and 1347, respectively, as more particularly set forth below.

13. At all times relevant to this Accusation:

a. Medicare was a federal health care benefit program, affecting commerce, that provided benefits to individuals who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency

1 operating under the authority of the United States Department of Health and Human Services
2 ("HHS").

3 b. Individuals who qualified for Medicare benefits were referred to as
4 Medicare "beneficiaries." Each Medicare beneficiary was given a Health Identification Card
5 containing a unique identification number ("HICN").

6 c. Health care providers who provided medical services that were reimbursed by
7 Medicare were referred to as Medicare "providers."

8 d. CMS contracted with private companies to certify providers for participation in
9 the Medicare program and monitor their compliance with Medicare standards, to process and
10 pay claims, and to perform safeguard functions, such as identifying and reviewing suspect
11 claims. During the time relevant to this Accusation, the contracted private company with
12 responsibility for processing and paying Medicare claims for services rendered in California was
13 Palmetto GBA, LLC, which was located in South Carolina.

14 e. To obtain reimbursement from Medicare, a provider had to apply for and obtain
15 a provider number. By signing the provider application, the provider agreed to (a) abide by
16 Medicare rules and regulations and (b) not submit claims to Medicare knowing they were false or
17 fraudulent or with deliberate ignorance or reckless disregard of their truth or falsity.

18 f. If Medicare approved a provider's application, Medicare assigned the provider
19 a Medicare provider number, which enabled the provider to submit claims to Medicare for
20 services rendered to Medicare beneficiaries.

21 g. Medicare reimbursed providers only for services, including physical therapy,
22 that were medically necessary to the treatment of a beneficiary's illness or injury, were prescribed
23 by a beneficiary's physician or a qualified physician's assistant acting under the supervision of a
24 physician, and were provided in accordance with Medicare regulations and guidelines that
25 governed whether a particular service or product would be reimbursed by Medicare.

26 14. At all times relevant to this Accusation, Urological Medical Associates, a medical
27 group doing business as Advanced Urology Medical Offices ("AUMO"), was a partnership of
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1 urologists with its primary office located in Westchester, in Los Angeles County, California.
2 AUMO had additional offices in Culver City, Los Angeles, and Torrance, California.

3 15. At all times relevant to this Accusation, Respondent was a medical doctor, licensed in
4 the State of California, who specialized in urology. In or about 2004, Respondent was required
5 by the Board to complete additional training in the area of patient record keeping.

6 16. At all times relevant to this Accusation, Respondent was a Medicare provider, with a
7 Medicare provider number that enabled him to submit claims to Medicare for services rendered to
8 Medicare beneficiaries.

9 17. From in or about July 2001 through in or about April 2013, Respondent, through his
10 professional corporation, Mark Tamarin, M.D., Inc., was a partner in AUMO, with his primary
11 office at AUMO's Westchester location, within California. During the time that Respondent was
12 an AUMO partner, AUMO was authorized to, and did, submit claims to Medicare for services
13 rendered, and purportedly rendered, to Medicare beneficiaries by Respondent.

14 18. At all times relevant to this Accusation, Kindred Hospital, located at 5525 West
15 Slauson Avenue, Los Angeles, California ("Kindred Hospital"), was a long term acute
16 care facility. During the time that Respondent was an AUMO partner, AUMO submitted claims
17 to Medicare for services rendered, and purportedly rendered, by Respondent to Medicare
18 beneficiaries hospitalized at Kindred Hospital.

19 19. The June 6, 2017 indictment alleged a fraudulent scheme as follows. Beginning in or
20 about January 2009 and continuing through in or about January 2013, Respondent knowingly and
21 with intent to defraud, devised and participated in a scheme to defraud Medicare as to material
22 matters, and to obtain money and property from Medicare by means of material false and
23 fraudulent pretenses, representations, and promises, and the concealment of material facts.

24 20. The fraudulent scheme was carried out in substance as follows:

25 A. Respondent caused AUMO to bill Medicare for services he did not provide.

26 For example:
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1 i. Respondent caused AUMO to bill Medicare for services purportedly
2 provided by Respondent at Kindred Hospital during times when Respondent was actually at
3 AUMO' s Westchester office;

4 ii. Respondent caused AUMO to bill Medicare for services purportedly
5 provided by Respondent at AUMO and Kindred Hospital when it was physically impossible for
6 Respondent to have provided all the services billed during the limited times he was actually at the
7 locations at which the services purportedly were rendered;

8 iii. Respondent caused AUMO to bill Medicare for services purportedly
9 provided by Respondent to multiple patients at the same time.

10 B. Respondent caused AUMO to bill Medicare for medically unnecessary
11 services, including, in particular, medically unnecessary comprehensive examinations, renal
12 ultrasounds, and Post Voiding Residual tests, as well as medically unnecessary daily visits (from
13 Monday through Friday) to patients at Kindred Hospital.

14 C. Knowing that the services being billed had not actually been provided and were
15 not medically necessary, Respondent caused AUMO to submit to Medicare claims for
16 reimbursement for these services that were materially false and misleading in that they
17 represented that the services had been provided and were medically necessary.

18 D. To conceal that he was causing AUMO to bill for medically
19 unnecessary services and services not actually rendered Respondent falsified patient chart entries
20 to make it appear that the services were provided and were medically necessary. In doing so,
21 among other things:

22 i. Respondent wrote patient notes to cover full pages so those pages could
23 be inserted in patient files after the fact in an effort to conceal that they had not been entered in
24 the patient file in chronological order with services actually rendered.

25 ii. Respondent duplicated similar treatment information in Counts one
26 through nine in patient notes for multiple patients even though some of those patients had
27 differing plans of care that did not support Respondent's treatment notes.

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1 iii. Respondent duplicated similar information in multiple entries in patient
2 notes that contradicted notes for the same patient prepared on an ongoing basis by other treating
3 physicians.

4 21. The June 6, 2017, indictment alleged Respondent's use of the wires in the fraudulent
5 scheme as follows. On or about the dates set forth below, the June 6, 2017, indictment alleged
6 that Respondent for the purpose of executing and attempting to execute the fraudulent scheme
7 described above, caused the following claims for payment for medical services to be transmitted
8 by wire in interstate commerce from AUMO in Los Angeles County, California, to Palmetto
9 GBA, LLC, in South Carolina:

COUNT	DATE CLAIM FILED	ITEM WIRED
ONE	July 6, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient R.B. on or about June 5, 2012
TWO	July 6, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient W.E. on or about June 11, 2012
THREE	July 6, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient W.A. on or about June 22, 2012
FOUR	August 3, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient Y.I. on or about July 17, 2012
FIVE	October 5, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient C.S. on or about September 13, 2012
SIX	November 7, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient M.C. on or about October 2, 2012
SEVEN	November 7, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient D.E. on or about

1	EIGHT	November 7, 2012	October 9, 2012 Claim seeking payment in the amount of \$210.00 for services purportedly provided to patient P.B.Jr. on or about October 29, 2012
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3			
4	NINE	November 8, 2012	Claim seeking payment in the amount of \$85.00 for services purportedly provided to patient T.D.III on or about September 6, 2012
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6			

7 22. In Count ten of the June 6, 2017, indictment, a further fraudulent scheme by
8 respondent was alleged as follows. Beginning in or about January 2009 and continuing through
9 in or about January 2013, in Los Angeles, Respondent knowingly, willfully, and with intent to
10 defraud, executed and attempted to execute a scheme to defraud Medicare as to material matters
11 and to obtain money and property from Medicare by means of material false and fraudulent
12 pretenses, representations, and promises, and the concealment of material facts, in connection
13 with the delivery of, and payment for, health care benefits items and services. The fraudulent
14 scheme was carried out, in substance, as set out above.

15 23. On or about November 15, 2012, Respondent knowingly and willfully executed and
16 attempted to execute the fraudulent scheme described above by preparing patient chart entries
17 stating that on or about November 15, 2012, between 6:30 am and 9:30 am, he provided services
18 at Kindred Hospital to patients A.N., C.S., P.B., Jr., T.M., and E.M., which patient chart entries
19 Respondent knew to be false in that he had not provided the services reflected in the chart entries
20 at the specified date and times.

21 24. In the case entitled *United States of America v. Mark Winfred Talbot*, U.S. District
22 Court Case No. CR 17-344 DSF, on or about July 18, 2019, Respondent was found guilty by a
23 jury of Counts 1, 2, 3, 5, 6, 9 and 10, referenced above in the June 6, 2017 indictment, and
24 accordingly convicted of health care fraud and wire fraud in violation of 18 U.S.C. sections 1343
25 and 1347, as alleged in the respective counts of the June 6, 2017 indictment. On or about
26 February 24, 2020, Respondent was sentenced to 71 months in federal prison based on his
27 conviction and ordered to pay \$344, 736.72 in restitution and a fine of \$20,000.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 25. By reason of the facts set forth in paragraphs 12 through 24 above, Respondent is
4 subject to disciplinary action under section 2236, subdivision (a), and section 490 of the Code, as
5 well as California Code of regulations, title 16, section 1360, in that he has been convicted of
6 offences which are substantially related to the qualifications, functions, or duties of a physician
7 and surgeon.

8 26. Respondent's acts and/or omissions as set forth in paragraphs 12 through 24, above
9 are incorporated herein, whether proven individually, jointly, or in any combination thereof,
10 constitute the conviction of crimes substantially related to the qualifications, function or duties of
11 a physician and surgeon, pursuant to section 2236, subdivision (a), and section 490 of the Code,
12 as well as California Code of Regulations, title 16, Section 1360.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Dishonesty)**

15 27. By reason of the facts set forth in paragraphs 12 through 24 above, Respondent. is
16 subject to disciplinary action under section 2234, subdivision (e), of the Code in that he has
17 committed acts of dishonesty.

18 28. Respondent's acts and/or omissions as set forth in paragraphs 12 through 24, above
19 are incorporated herein, whether proven individually, jointly, or in any combination thereof,
20 constitute dishonesty, pursuant to Section 2234, subdivision (e), of the Code.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 29. By reason of the facts set forth in paragraph 12 through 28 above, Respondent is
24 subject to disciplinary action under Section 2234 of the Code in that Respondent engaged in
25 unprofessional conduct.

26 **DISCIPLINARY CONSIDERATION**

27 In the case entitled *In the Matter of the Accusation Against Mark Tamarin, M.D.*, Medical
28 Board of California Case No. 17-2000-114341, effective April 28, 2004, Respondent was

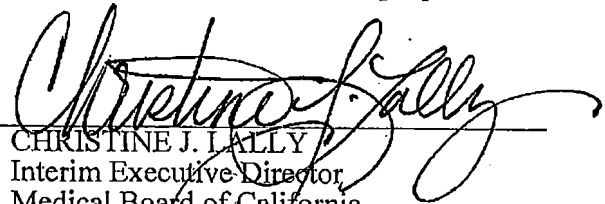
1 publicly reprimanded for poor record keeping in violation of Business and Professional Code
2 section 2266.

3 **PRAYER**

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 38807,
7 issued to Mark Wilfred Tamarin, M.D.;
- 8 2. Revoking, suspending or denying approval of Mark Wilfred Tamarin, M.D.'s
9 authority to supervise physician assistants and advanced practice nurses;
- 10 3. Ordering Mark Wilfred Tamarin, M.D., if placed on probation, to pay the Board the
11 costs of probation monitoring; and
- 12 4. Taking such other and further action as deemed necessary and proper.

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14 DATED: APRIL 3, 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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