

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

In the Matter of the Accusation Against:

Mark Leonard Goldstein, M.D.

Physician's and Surgeon's
Certificate No. G 34310

Respondent.

Case No. 800-2021-075444

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 July 17, 2023.

IT IS SO ORDERED July 10, 2023.

MEDICAL BOARD OF CALIFORNIA



Reji Varghese
Executive Director

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 MARSHA E. BARR-FERNANDEZ
Deputy Attorney General
4 State Bar No. 200896
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6249
6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

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:
13 **MARK LEONARD GOLDSTEIN, M.D.**
23101 Sherman Place, Suite 410
West Hills, CA 91307-2026
14 **Physician's and Surgeon's Certificate No.**
15 **G 34310**
16 Respondent.

Case No. 800-2021-075444
**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
22 of California (Board). He brought this action solely in his official capacity and is represented in
23 this matter by Rob Bonta, Attorney General of the State of California, by Marsha E. Barr-
24 Fernandez, Deputy Attorney General.

25 2. MARK LEONARD GOLDSTEIN, M.D. (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

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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: June 22, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

Marsha E. Barr-Fernandez

MARSHA E. BARR-FERNANDEZ
Deputy Attorney General
Attorneys for Complainant

LA2023601206

Exhibit A

Accusation No. 800-2021-075444

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 MARSHA E. BARR-FERNANDEZ
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4 State Bar No. 200896
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13 **MARK LEONARD GOLDSTEIN, M.D.**
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15 **Physician's and Surgeon's Certificate**
No. G 34310,
16
17 Respondent.

Case No. 800-2021-075444

A C C U S A T I O N

18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
20 the Interim Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).

22 2. On or about June 24, 1977, the Board issued Physician's and Surgeon's Certificate
23 Number G 34310 to Mark Leonard Goldstein, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate was in full force and effect at all times relevant to the charges brought herein and
25 expired on October 31, 2021.

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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 (Code) unless otherwise
4 indicated.

5 4. Section 2004 of the Code states:

6 The board shall have the responsibility for the following:

7 (a) The enforcement of the disciplinary and criminal provisions of the Medical
8 Practice Act.

9 (b) The administration and hearing of disciplinary actions.

10 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
an administrative law judge.

11 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
12 of disciplinary actions.

13 (e) Reviewing the quality of medical practice carried out by physician and
surgeon certificate holders under the jurisdiction of the board.

14 (f) Approving undergraduate and graduate medical education programs.

15 (g) Approving clinical clerkship and special programs and hospitals for the
16 programs in subdivision (f).

17 (h) Issuing licenses and certificates under the board's jurisdiction.

18 (i) Administering the board's continuing medical education program.

19 5. Section 2220 of the Code states:

20 Except as otherwise provided by law, the board may take action against all
21 persons guilty of violating this chapter. The board shall enforce and administer this
22 article as to physician and surgeon certificate holders, including those who hold
certificates that do not permit them to practice medicine, such as, but not limited to,
retired, inactive, or disabled status certificate holders, and the board shall have all the
powers granted in this chapter for these purposes including, but not limited to:

23 (a) Investigating complaints from the public, from other licensees, from health
24 care facilities, or from the board that a physician and surgeon may be guilty of
unprofessional conduct. The board shall investigate the circumstances underlying a
25 report received pursuant to Section 805 or 805.01 within 30 days to determine if an
interim suspension order or temporary restraining order should be issued. The board
26 shall otherwise provide timely disposition of the reports received pursuant to Section
805 and Section 805.01.

27 (b) Investigating the circumstances of practice of any physician and surgeon
28 where there have been any judgments, settlements, or arbitration awards requiring the
physician and surgeon or his or her professional liability insurer to pay an amount in

1 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
2 respect to any claim that injury or damage was proximately caused by the physician's
3 and surgeon's error, negligence, or omission.

4 (c) Investigating the nature and causes of injuries from cases which shall be
5 reported of a high number of judgments, settlements, or arbitration awards against a
6 physician and surgeon.

7 6. Section 2227 of the Code states:

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

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

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

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

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

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

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

STATUTORY PROVISIONS

7. Section 2234 of the Code, states:

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.

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

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

9 (d) Incompetence.

10 (e) The commission of any act involving dishonesty or corruption that is
11 substantially related to the qualifications, functions, or duties of a physician and
12 surgeon.

13 (f) Any action or conduct that would have warranted the denial of a certificate.

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

17 8. Section 2236 of the Code states:

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

23 (b) The district attorney, city attorney, or other prosecuting agency shall notify
24 the Medical Board of the pendency of an action against a licensee charging a felony
25 or misdemeanor immediately upon obtaining information that the defendant is a
26 licensee. The notice shall identify the licensee and describe the crimes charged and
27 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
28 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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9. Section 2237 of the Code states:

(a) The conviction of a charge of violating any federal statutes or regulations or any statute or regulation of this state, regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered in accordance with Section 2227 or the Medical Board may order the denial of the license 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 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

10. Section 2238 of the Code states:

A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

11. 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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REGULATORY PROVISIONS

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

(a) For the purposes of denial, suspension or revocation of a license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes, professional misconduct, 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 state or federal law governing the applicant's or licensee's professional practice.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

- (1) The nature and gravity of the crime;
- (2) The number of years elapsed since the date of the crime; and
- (3) The nature and duties of the profession.

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COST RECOVERY

13. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

1 (e) If an order for recovery of costs is made and timely payment is not made as
2 directed in the board's decision, the board may enforce the order for repayment in any
3 appropriate court. This right of enforcement shall be in addition to any other rights
4 the board may have as to any licensee to pay costs.

5 (f) In any action for recovery of costs, proof of the board's decision shall be
6 conclusive proof of the validity of the order of payment and the terms for payment.

7 (g) (1) Except as provided in paragraph (2), the board shall not renew or
8 reinstate the license of any licensee who has failed to pay all of the costs ordered
9 under this section.

10 (2) Notwithstanding paragraph (1), the board may, in its discretion,
11 conditionally renew or reinstate for a maximum of one year the license of any
12 licensee who demonstrates financial hardship and who enters into a formal agreement
13 with the board to reimburse the board within that one-year period for the unpaid
14 costs.

15 (h) All costs recovered under this section shall be considered a reimbursement
16 for costs incurred and shall be deposited in the fund of the board recovering the costs
17 to be available upon appropriation by the Legislature.

18 (i) Nothing in this section shall preclude a board from including the recovery of
19 the costs of investigation and enforcement of a case in any stipulated settlement.

20 (j) This section does not apply to any board if a specific statutory provision in
21 that board's licensing act provides for recovery of costs in an administrative
22 disciplinary proceeding.

23 **FIRST CAUSE FOR DISCIPLINE**

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

25 14. Respondent Mark Leonard Goldstein, M.D. is subject to disciplinary action under
26 sections 490 and 2236 of the Code, and California Code of Regulations, title 16, section 1360, in
27 that Respondent was convicted of a crime substantially related to the qualifications, functions, or
28 duties of a physician. The circumstances are as follows:

15 15. Respondent is an oncologist whose practice was based in West Hills and Van Nuys,
16 California. The practice was a General Partnership called Hematology Oncology Consultants
17 (HOC). Respondent was one of two partners in the partnership.

18 16. From approximately 2008 through 2011, HOC purchased discounted oncology drugs
19 from Montana Healthcare Solutions, a business that sourced drugs from foreign markets. The
20 foreign market drugs violated the Federal Food, Drug, and Cosmetic Act, Title 21 United States
21 Code section 301, et seq., insofar as they were, *inter alia*: (a) misbranded under Title 21 United
22 States Code section 352(o), because they were not listed with the FDA for commercial
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1 distribution in the United States; (b) unapproved new drugs under Title 21 United States Code
2 sections 321(p) and 355(a); and (c) brought into the United States in violation of Title 21 United
3 States Code sections 331(c) (receipt in interstate commerce and the proffered delivery for pay or
4 otherwise of a misbranded drug) and 331(d) (introduction into interstate commerce of an
5 unapproved new drug).

6 17. In March 2009, a Special Agent from the FDA's Office of Criminal Investigations
7 ("FDA-OCI") visited HOC and spoke with the office manager who said she could not remember
8 purchasing drugs from the supplier under investigation, and only purchased drugs from "approved
9 distributors."

10 18. After the visit from the FDA-OCI, HOC continued buying illegal foreign market
11 drugs from Montana Healthcare Solutions. From June 2008 through October 2010, HOC
12 purchased over \$1,000,000 of drugs from Montana Healthcare Solutions. Respondent was aware
13 that HOC was purchasing and administering drugs from Montana Healthcare Solutions, but
14 Respondent denied knowing that the drugs were illegal. In October 2010, Montana Healthcare
15 Solutions was acquired by Canada Drugs, Ltd. ("Canada Drugs"). On April 13, 2018, Canada
16 Drugs pleaded guilty to illegal sales of misbranded and counterfeit prescription drugs that were
17 unapproved in the United States.

18 19. Many of the invoices from Montana Healthcare Solutions indicated that the drugs
19 were meant for foreign markets, such as Turkey or countries within the European Union, and
20 some of the invoices identified the drugs by different names. For instance, an invoice dated
21 March 17, 2011, addressed to Respondent and handled in the ordinary course by the HOC office
22 manager, listed one of the items purchased as "Altuzan (bevacizumab) (known as Avastin in the
23 U.S.) (Refrigerated) - Turkey- 400mg/16ml - 1 vial." The invoice provided that the product
24 would be shipped to HOC at its Van Nuys office. The drug "Altuzan" was not approved by the
25 FDA, and was not listed with the FDA as a drug meant for commercial distribution in the United
26 States.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Dishonest and Corrupt Acts)

3 26. Respondent Mark Leonard Goldstein, M.D. is subject to disciplinary action under
4 section 2234, subdivisions (a) and (e), in that Respondent engaged in dishonest and corrupt acts.
5 The circumstances are as follows:

6 27. The facts and allegations set forth in the First and Second Causes for Discipline are
7 incorporated by reference as if fully set forth.

8 PRAYER

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

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 34310,
12 issued to Respondent Mark Leonard Goldstein, M.D.;
- 13 2. Revoking, suspending or denying approval of Respondent Mark Leonard Goldstein,
14 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 15 3. Ordering Respondent Mark Leonard Goldstein, M.D., to pay the Board the costs of
16 the investigation and enforcement of this case, and if placed on probation, the costs of probation
17 monitoring;
- 18 4. Taking such other and further action as deemed necessary and proper.

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20 DATED: JUN 02 2023

JENNA JONES FOR
REJI VARGHESE
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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