

1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 TESSA L. HEUNIS  
Deputy Attorney General  
4 State Bar No. 241559  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9403  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2017-032412

14 **Tara Alaina Zandvliet, M.D.,**  
15 **2991 Kalmia St**  
**San Diego, CA 92104**

**ACCUSATION**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 71646,**

18 Respondent.

19  
20 **PARTIES**

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

24 2. On or about May 11, 2000, the Medical Board issued Physician's and Surgeon's  
25 Certificate No. A 71646 to Tara Alaina Zandvliet, M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on July 31, 2021, unless renewed.

28 ////

JURISDICTION

1  
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 2227 of the Code states:

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

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

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

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

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

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

21 ...

22 5. Section 2234 of the Code, states:

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

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

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

////

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

4 (d) Incompetence.

5 ...

6 6. Section 2266 of the Code states:

7 The failure of a physician and surgeon to maintain adequate and accurate  
8 records relating to the provision of services to their patients constitutes unprofessional  
conduct.

9 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct  
10 which breaches the rules or ethical code of the medical profession, or conduct which is  
11 unbecoming to a member in good standing of the medical profession, and which demonstrates an  
12 unfitness to practice medicine.<sup>1</sup>

13 **OTHER RELEVANT STATUTORY PROVISIONS**

14 8. Section 120335 of the Health and Safety Code states:

15 (a) As used in this chapter, 'governing authority' means the governing board of  
16 each school district or the authority of each other private or public institution  
responsible for the operation and control of the institution or the principal or  
17 administrator of each school or institution.

18 (b) The governing authority shall not unconditionally admit any person as a  
pupil of any private or public elementary or secondary school, child care center, day  
19 nursery, nursery school, family day care home, or development center, unless, prior to  
his or her first admission to that institution, he or she has been fully immunized. The  
following are the diseases for which immunizations shall be documented:

- 20 (1) Diphtheria.  
21 (2) Haemophilus influenzae type b.  
22 (3) Measles.  
23 (4) Mumps.  
24 (5) Pertussis (whooping cough).  
25 (6) Poliomyelitis.  
26 (7) Rubella.  
27 (8) Tetanus.  
28 (9) Hepatitis B.  
(10) Varicella (chickenpox).  
(11) Any other disease deemed appropriate by the department, taking into  
consideration the recommendations of the Advisory Committee on Immunization  
Practices of the United States Department of Health and Human Services, the  
American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Notwithstanding subdivision (b), full immunization against hepatitis B shall  
not be a condition by which the governing authority shall admit or advance any pupil

---

<sup>1</sup> *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 to the 7th grade level of any private or public elementary or secondary school.

2 (d) The governing authority shall not unconditionally admit or advance any  
3 pupil to the 7th grade level of any private or public elementary or secondary school  
4 unless the pupil has been fully immunized against pertussis, including all pertussis  
5 boosters appropriate for the pupil's age.

6 (e) The department may specify the immunizing agents that may be utilized and  
7 the manner in which immunizations are administered.

8 ...  
9 (g)(1) A pupil who, prior to January 1, 2016, submitted a letter or affidavit on  
10 file at a private or public elementary or secondary school, child day care center, day  
11 nursery, nursery school, family day care home, or development center stating beliefs  
12 opposed to immunization shall be allowed enrollment to any private or public  
13 elementary or secondary school, child day care center, day nursery, nursery school,  
14 family day care home, or development center within the state until the pupil enrolls in  
15 the next grade span.

16 (2) For purposes of this subdivision, 'grade span' means each of the following:

17 (A) Birth to preschool.

18 (B) Kindergarten and grades 1 to 6, inclusive, including transitional  
19 kindergarten.

20 (C) Grades 7 to 12, inclusive.

21 (3) Except as provided in this subdivision, on and after July 1, 2016, the  
22 governing authority shall not unconditionally admit to any of those institutions  
23 specified in this subdivision for the first time, or admit or advance any pupil to 7th  
24 grade level, unless the pupil has been immunized for his or her age as required by this  
25 section.

26 ...

27 9. Section 120370 of the Health and Safety Code states:

28 (a) If the parent or guardian files with the governing authority a written  
statement by a licensed physician to the effect that the physical condition of the child  
is such, or medical circumstances relating to the child are such, that immunization is  
not considered safe, indicating the specific nature and probable duration of the  
medical condition or circumstances, including, but not limited to, family medical  
history, for which the physician does not recommend immunization, that child shall  
be exempt from the requirements of Chapter 1 (commencing with Section 120325,  
but excluding Section 120380) and Sections 120400, 120405, 120410, and 120415 to  
the extent indicated by the physician's statement.

...

### FACTUAL ALLEGATIONS

10. Respondent practices internal medicine and pediatrics at her solo practice, South Park  
Doctors.

11. Patient A<sup>2</sup> is a female minor, born in December 2011, whose parents are divorced.

12. From at least on or about May 8, 2016, Patient A's father ("Mr. A") engaged in email  
correspondence with respondent, seeking a medical exemption from vaccinations for Patient A.

<sup>2</sup> For the sake of patient privacy, the patient concerned is designated herein only as  
"Patient A." Her identity is known to all parties involved herein.

1 In an email dated May 8, 2016, Mr. A wrote, “[m]y 4 year old daughter was barely vaccinated  
2 and I would like to get her evaluated...”

3 13. On or about May 9, 2016, respondent sent an email to Mr. A, in which she stated:

4 “If you can find 4 or more people affected with [the type of illnesses listed on  
5 my webpage], I could make a case that she likely has inherited a tendency to over  
6 reactive immune system. Then you get some kind of documentation of it. ...”

7 14. On or about July 1, 2016, Mr. A informed respondent that (1) his maternal  
8 grandmother had asthma and psoriasis (among others), (2) his mother had “asthma, hives from  
9 sulfur, and ... vomiting and [a] rash from Erythromycin, Vicodin and Percocet”, (3) his half-  
10 brother “had asthma when he was younger,” and (4) his uncle (Mr. A’s mother’s brother) had  
11 “asthma, psoriasis, eczema, and allergies to cat dander and dust. Do you think that would  
12 qualify?”

13 15. On or about July 3, 2016, respondent emailed Mr. A, saying “Great! ... Looks like 4  
14 or more people to me! Go ahead and get the documentation for each and I’ll take a look! ...”

15 16. On an unknown date(s), respondent received the following documentation:

16 (a) Regarding Patient A’s paternal great-grandmother, a letter stating that she had had  
17 asthma from ages 25 through about 45, and had suffered from psoriasis since  
18 approximately aged 60. She was also allegedly allergic to Lipitor, Aspirin, and steroid  
19 medicines, which caused the allergic reactions of “swelling, not being able to walk, and  
20 total loss of energy” in the then 85 year old woman.

21 (b) Regarding Patient A’s father’s half-brother, a letter stating that, between ages 5 through  
22 18, he suffered from asthma.

23 (c) Regarding Patient A’s great uncle (Patient A’s grandmother’s brother), a one-page  
24 medical record stating that he suffered from psoriasis and a form of dermatitis (among  
25 other, non-relevant conditions).

26 (d) Regarding Patient A’s paternal grandmother, a letter stating that she had asthma from  
27 ages 3 through 23, and had suffered a vaccine reaction from a rabies shot when she was  
28 3 years old (approximately 58 years prior). Respondent also received one page of

////

1 medical records pertaining to the paternal grandmother, on which neither the asthma nor  
2 the rabies vaccine (or the alleged reaction to it) were documented.

3 17. On or about July 14, 2016, respondent emailed Mr. A, saying:  
4 "All of it looks fantastic! Good job! I am putting you on the list of qualified  
and documented. ..."

5 18. On or about July 26, 2016, at approximately 12:50 p.m., Mr. A provided respondent  
6 with Patient A's name and date of birth, since he urgently required documentation of the planned  
7 medical exemption to provide to court the following day.

8 19. On or about July 26, 2016, at approximately 1:14 p.m., approximately three weeks  
9 before seeing Patient A, respondent sent the following email to Mr. A:

10 "I certify under penalty of perjury that I have personally examined the pertinent  
11 medical records of [Patient A]'s ([date of birth]<sup>3</sup>) family, and find her qualified per  
12 California law SB277<sup>4</sup> for a medical exemption to vaccines. I have medical  
13 documentation in my possession upon which I base this determination. I am currently  
14 waiting for my schedule to accommodate their appointment, which will be the second  
15 half of August. The appointment is guaranteed, at which time I will formally write  
the medical exemption according to law and dept. of Public Health regulations. The  
16 exemption will be permanent and include DtaP, TdaP, MMR, Polio, Varicella, Hib,  
17 PCV, Meningitis and Hepatitis A and B. Thank you for understanding the challenges  
18 of scheduling during the school rush!"

19 20. On or about August 15, 2016, respondent saw Patient A at her office. Respondent's  
20 examination of Patient A consisted of "watching her play with the toys and doing the  
21 developmental, by watching her do that." She did not conduct a physical examination of Patient  
22 A other than seeing "anything that was outside of clothing." Respondent did not find any  
23 evidence in Patient A of an autoimmune condition.

24 21. Throughout Respondent's care and treatment of Patient A, she was unaware whether  
25 Patient A had been previously vaccinated or not. In fact, Patient A had previously had  
26 vaccinations without adverse incident.

27 22. What respondent looks for, before providing a medical exemption, is:

28 \_\_\_\_\_  
<sup>3</sup> Omitted for the privacy of Patient A.

<sup>4</sup> California Senate Bill 277 was a California bill that removed personal belief exemptions  
to vaccination requirements for entry to private or public elementary or secondary schools in  
California, as well as day care centers. It was passed in the California State Senate in June 2015  
and signed into law by Governor Jerry Brown on June 30, 2015

1            “[G]enerally, in the family, ... a consistent pattern of multiple people with an  
2 overactive immune system. That would give me an indication that, when I give a  
3 vaccine, they are at slightly higher risk of maybe an overreaction to the vaccine. Not  
4 necessarily a horrible one, but slightly higher risk.”

5            “Um, and so they might want to do the vaccine, slightly differently. For  
6 example, if they have an overactive immune system, they’re at slightly higher risk of  
7 having hives, uh, or an allergic reaction...”

8            23. Respondent found Patient A’s risk of an adverse reaction (including hives) to  
9 vaccines to be “slightly increased.”

10           24. On the same day as the office consultation with Patient A, respondent provided Mr. A  
11 with a letter on her office letterhead, stating:

12            “[Patient A] has a strong family history of hyperimmune conditions like  
13 asthma, autoimmune disease, and vaccine reactions. Given this level of immune  
14 dysfunction in the family, I feel she is at high risk of a severe reaction to vaccines. If  
15 there is an imminent medical threat in the community, we can consider giving a  
16 single vaccine in a controlled medical environment. However, the benefits to her and  
17 the community would have to greatly outweigh her very real personal risk. I would  
18 recommend skin testing to the vaccine and all of its additives prior to this. This  
19 medical exemption for vaccines is permanent. It includes, but is not limited to, Hep  
20 B, Varicella, Tdap, DtaP, Hib, PCV, Polio, Meningitis and MMR, as well as any  
21 vaccine currently on the CDC recommended vaccine list and any vaccines added to  
22 the list in the future.”

23           25. At the subject interview, respondent explained that the family history “vaccine  
24 reactions” mentioned in the letter was a reference to the reaction to the rabies vaccine reportedly  
25 suffered by Patient A’s grandmother at age 3 or some 58 years prior, as mentioned in Patient A’s  
26 grandmother’s letter.

27           26. Respondent explained, further that the family history of “autoimmune disease”  
28 mentioned in the letter was a reference to the psoriasis (reportedly suffered by Patient A’s  
paternal great-grandmother, as mentioned in her letter).

          27. Patient A’s mother (“Mrs. A”) contacted respondent on or about August 15, 2016,  
expressing concern about the medical exemption provided by respondent and the grounds on  
which it was based, including whether medical records had been fabricated. In response,  
respondent stated, “[i]n terms of falsifying medical documents, it didn’t happen – I have the  
records direct from the doctor.” In fact, respondent had received medical documentation  
regarding the family members’ reported (relevant) conditions from only one person, namely,  
someone reported to be Patient A’s great uncle.

1           28. Respondent provided investigators in this matter with a transcript of what she  
2 typically tells patients and their parents in her group visits. It includes the following passage:

3                   “The things in the vaccines are there for a reason - if any of you use colloidal  
4 silver as an antiviral/antibiotic, then you know why aluminum is in the vaccines.  
5 Something has to be in the vaccine to prevent bacteria from growing in it while it sits  
6 on the shelf. Remember the spinal injections in Florida that killed many people  
7 because they had a fungus growing in the steroidal solution? Well, how about  
8 injecting bacteria along with your vaccine. No thanks. If not aluminum, then  
9 neomycin antibiotic. You can't have nothing in it.”

10           This is inaccurate. In fact, aluminum acts as an adjuvant in vaccines. Adjuvants help the  
11 body to produce an immune response strong enough to protect the person from the disease against  
12 which he or she is being vaccinated.

13           29. The group visit transcript also encourages parents to “follow [their] gut” in deciding  
14 on a vaccination schedule for each child, and to follow their children’s “gut,” too. She provides  
15 the example of her daughter who, when she was 12, told respondent that she was “going to get the  
16 flu this year and die,” as she had “felt it in [her] bones.” Respondent continued, “[t]hat’s a pretty  
17 strong gut feeling. So I gave her the shot ...”

18           30. Respondent’s billing record for Patient A indicates a CPT code 99203, that is, a  
19 Level 3 new patient office visit. CPT code 99203 requires a detailed history, a detailed physical  
20 exam, low complexity medical decision-making, and presenting problems of moderate severity.  
21 Respondent’s chart for Patient A contains a one-page medical record reflecting the care provided  
22 at her appointment on or about August 15, 2016. The records do not indicate either a detailed  
23 physical exam or a complete medical history (including Patient A’s immunization history).

24           31. Respondent’s medical chart for Patient A incorrectly documents Patient A’s great  
25 uncle as having asthma. There is no evidence of his having asthma in any documents provided to  
26 respondent.

27           32. Respondent’s medical chart for Patient A incorrectly documents Patient A’s uncle  
28 (Mr. A’s half-brother) as having psoriasis, eczema and allergies. There is no evidence of his  
having any of these conditions in any documents provided to respondent.

          33. Respondent estimates that, as of June 2019, she had provided roughly 1,000 medical  
exemptions since California Senate Bill 277 was passed.



1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 34. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined  
4 by section 2234, subdivision (b), of the Code, in that she committed gross negligence in her care  
5 and treatment of Patient A, which includes, but is not limited to, granting permanent vaccine  
6 exemption for Patient A based on a remote and irrelevant family medical history.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Repeated Negligent Acts)**

9 35. Respondent is further subject to disciplinary action under sections 2227 and 2234, as  
10 defined by section 2234, subdivision (c), of the Code, in that she committed repeated negligent  
11 acts in her care and treatment of Patient A, which include, but are not limited to:

12 (a) Granting permanent vaccine exemption for Patient A based on a remote and irrelevant  
13 family medical history; and

14 (b) Failing to maintain adequate and accurate medical records.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Failure to Maintain Adequate and Accurate Records)**

17 36. Respondent is further subject to disciplinary action under sections 2227 and 2234, as  
18 defined by section 2266, of the Code, in that she failed to maintain adequate and accurate records  
19 relating to her provision of services to Patient A, as more particularly alleged in paragraphs 30  
20 through 32, above, which are hereby realleged and incorporated by this reference as if fully set  
21 forth herein.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

24 37. Respondent is further subject to disciplinary action in that she has engaged in conduct  
25 which breaches the rules or ethical code of the medical profession, or conduct that is unbecoming  
26 to a member in good standing of the medical profession, and which demonstrates an unfitness to  
27 practice medicine, as more particularly alleged in paragraphs 10 through 36, above, which are  
28 hereby realleged and incorporated by this reference as if fully set forth herein.


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER**

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 71646, issued to Respondent Tara Alaina Zandvliet, M.D.;
2. Revoking, suspending or denying approval of Respondent Tara Alaina Zandvliet, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Tara Alaina Zandvliet, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: October 1, 2019.

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