

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

In the Matter of the Accusation)
Against:)
)
)
Frank Sullivan Reynolds, M.D.)
)
Physician's and Surgeon's)
Certificate No. G 44261)
)
Respondent)
_____)

Case No. 800-2017-034136

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 January 2, 2020.

IT IS SO ORDERED December 3, 2019.

MEDICAL BOARD OF CALIFORNIA

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

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 RYAN J. YATES
Deputy Attorney General
4 State Bar No. 279257
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7

8 *Attorneys for Complainant*

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

14 In the Matter of the Accusation Against:
15 **FRANK SULLIVAN REYNOLDS, M.D.**
3406 Granby Drive
16 Sacramento, CA 95827-3521
17 3525 Bajamont Way
Carmichael, CA 95608-2809
18
19 Physician's and Surgeon's Certificate No. G
44261
20 Respondent.

Case No. 800-2017-034136
OAH No. 2019030801
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

25 **PARTIES**

26 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
27 of California (Board). She brought this action solely in her official capacity and is represented in
28

1 this matter by Xavier Becerra, Attorney General of the State of California, by Ryan J. Yates,
2 Deputy Attorney General.

3 2. Frank S. Reynolds, M.D. (Respondent) is represented in this proceeding by attorney
4 Ian Scharg, Esq., whose address is Schuering, Zimmerman & Doyle LLP 400 University Ave.
5 Sacramento, CA 95825-65021.

6 3. On or about March 9, 1981, the Board issued Physician's and Surgeon's Certificate
7 No. G 44261 to Frank S. Reynolds, M.D. (Respondent). The Physician's and Surgeon's
8 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
9 No. 800-2017-034136, expired on May 31, 2018, and has not been renewed.

10 **JURISDICTION**

11 4. On or about November 15, 2018, Accusation No. 800-2017-034136 was filed before
12 the Board, and is currently pending against Respondent. A true and correct copy of Accusation
13 No. 800-2017-034136 and all other statutorily required documents were properly served on
14 Respondent. Respondent elected to surrender his Physician's and Surgeon's Certificate No.
15 G 44261. A copy of Accusation No. 800-2017-034136 is attached as Exhibit 1 and incorporated
16 by reference as if fully set forth herein.

17 **ADVISEMENT AND WAIVERS**

18 5. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 800-2017-034136. Respondent has also carefully read,
20 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
21 Disciplinary Order.

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

28

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

4 DISCIPLINARY ORDER

5 1. IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 44261
6 issued to Respondent Frank S. Reynolds, M.D., shall be Publicly Reprimanded by the Medical
7 Board of California under Business and Professions Code section 2227, subdivision (a)(4), in
8 resolution of Accusation No. 800-2017-034136, attached as Exhibit A. This Public Reprimand,
9 which is issued in connection with Accusation No. 800-2017-034136, is as follows:

10 2. Between on or about November 17, 2011, and November 19, 2011, you committed
11 gross negligence and repeated negligent acts in your care and treatment of Patient A, in that you
12 failed to place a properly utilize a stent during Patient A's surgery; failed to provide a dose of
13 indomethacin, in order to protect Patient A from pancreatitis; and failed to refer Patient A to
14 obtain a good faith evaluation by a health care provider and a hospital admission, after receiving
15 calls from calls from Patient A and his wife, which described his symptoms, as more fully
16 described in Accusation No. 800-2017-034136.

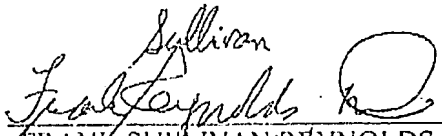
17 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
18 Decision, Respondent shall submit to the Board or its designee for its prior approval educational
19 program(s) or course(s) which shall not be less than 40 hours. The educational program(s) or
20 course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be
21 Category I certified. The educational program(s) or course(s) shall be at Respondent's expense
22 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
23 licensure. Following the completion of each course, the Board or its designee may administer an
24 examination to test Respondent's knowledge of the course. Respondent shall provide proof of
25 attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

26 ///
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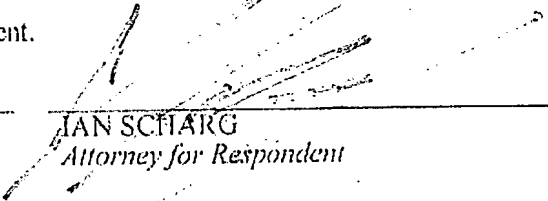
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ACCEPTANCE

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

DATED: 9/24/2019 
FRANK SULLIVAN REYNOLDS, M.D.
Respondent

I have read and fully discussed with Respondent Frank Sullivan Reynolds, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/24/19 
IAN SCHARG
Attorney for Respondent

ENDORSEMENT

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

DATED: 9/24/19

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

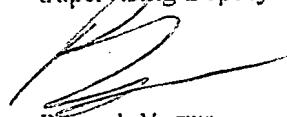

RYAN J. YATES
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-034136

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2 ALEXANDRA ALVAREZ
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10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:
15 **Frank S. Reynolds, M.D.**
3000 Q Street
Sacramento, CA 95816
16
17 Physician's and Surgeon's Certificate
No. G 44261,
18
19 Respondent.

Case No. 800-2017-034136

ACCUSATION

20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about March 9, 1981, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 44261 to Frank S. Reynolds, M.D. ("Respondent"). That Certificate was in full
27 force and effect at all times relevant to the charges brought herein and expired on May 31, 2018.

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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 2227 of the Code provides, in pertinent part, that a licensee who is found
6 guilty under the Medical Practice Act may have his or her license revoked, suspended for a period
7 not to exceed one year, placed on probation and required to pay the costs of probation monitoring,
8 or such other action taken in relation to discipline as the Board deems proper.

9 5. Section 2234 of the Code states, in pertinent part:

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

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

15 "(b) Gross negligence.

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

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

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

26 "... "

27 ///

28 ///

1 6. Section 118 of the Code states, in pertinent part:

2 “...

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

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

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Gross Negligence)**

15 7. Respondent’s Physician’s and Surgeon’s Certificate No. G 44261 is subject to
16 disciplinary action under section 2234, subdivision (b), of the Code, in that Respondent
17 committed gross negligence in his care and treatment of Patient A,¹ as more particularly alleged
18 hereinafter:

19 8. On or about November 17, 2011, at or about 11:15 a.m., Patient A, a then eighty-one
20 (81) year-old male, presented to Respondent’s hospital for a scheduled Endoscopic Retrograde
21 Cholangiopancreatography² (“ERCP”) and was operated on by Respondent, a gastroenterologist.

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23 _____
24 ¹ To protect the privacy of all patients involved, patient names have not been included in
this pleading. Respondent is aware of the identity of the patients referred to herein.

25 ² Endoscopic retrograde cholangiopancreatography is a procedure used to diagnose and
26 treat certain problems of the pancreatic ductal systems. Through an endoscope (a small, tubular,
internally placed device, equipped with a small camera), the physician can see the inside of the
27 stomach and duodenum. The physician can additionally inject dye into the ducts in the pancreas
to assist imaging on radiographs.

1 Patient A was placed under anesthesia. An endoscopic sphincterotomy³ was performed, followed
2 by a removal of bile duct stones by way of papillotomy.⁴ This was followed by a
3 sphincteroplasty⁵ and cytological brushing⁶ of Patient A's biliary stricture.⁷

4 9. The procedure lasted until at or about 12:35 p.m. Prior to the completion of the
5 procedure, Respondent failed to insert a stent into Patient A's pancreatic duct, which would have
6 served as a precautionary measure for the purpose of widening the duct and preventing
7 pancreatitis,⁸ which is a potential complication associated with the procedure.

8 10. After Patient A awoke from his sedation, Respondent met with him and participated
9 in a short, post-procedure consultation. During the consultation, Respondent failed to administer
10 or prescribe Indomethacin⁹ to Patient A, for the purpose of preventing pancreatic inflammation.
11 At or about 2:40 p.m., Patient A was released from the hospital and returned to his residence.

12 11. After returning to his residence, Patient A began experiencing stomach pain and
13 nausea. Between on or about November 17, 2011, at approximately 3:00 p.m., and on or about
14 November 18, 2011, at approximately 6:00 a.m., Patient A vomited blood and/or a dark-colored
15 material ("melenemesis") on three (3) separate occasions, and experienced rectal bleeding at least
16 once.

17
18 ³ Endoscopic sphincterotomy is a procedure where instruments and a camera are inserted
19 through small incisions, in order to allow a physician to correct a problem with the common
bile duct, which is located between the pancreas and liver.

20 ⁴ Papillotomy is the operation of cutting the area at the convergence of the pancreatic duct
21 and common bile duct in order to improve bile drainage, and allow the passage of stones from the
common bile duct.

22 ⁵ A Sphincteroplasty is an artificial, permanent opening, created between the common bile
duct and the duodenum.

23 ⁶ Cytological brushing is a procedure in which a small brush is used in conjunction with
24 an endoscope, for the purpose of cell collection.

25 ⁷ A biliary stricture is an abnormal narrowing of the common bile duct.

⁸ Pancreatitis is disease condition characterized by inflammation of the pancreas.

26 ⁹ Indomethacin is a non-steroidal anti-inflammatory drug. It is used to reduce swelling and
27 to treat pain. Indomethacin is a prescribed drug pursuant to California Business and Professions
Code section 4022.

1 12. On or about November 18, 2011, at approximately 7:45 a.m., Patient A's wife
2 attempted to contact Respondent via telephone, in order to report Patient A's complications. She
3 left a message with Respondent's physician's answering service. At or about 9:00 a.m.,
4 Respondent contacted Patient A and provided a telephonic consultation, after briefly speaking
5 with Patient A's wife. During the conversation, Patient A reiterated to Respondent that he had
6 experienced symptoms of abdominal pain, nausea and vomiting, rectal bleeding and melanemesis.
7 Respondent advised Patient A that based on the nature of the procedure, it is likely that he would
8 experience discomfort, and that he should begin feeling better soon. Respondent recommended
9 that Patient A take Maalox,¹⁰ eat soft foods, and avoid nonsteroidal anti-inflammatory drugs.
10 Respondent additionally advised Patient A to contact him if his condition did not improve. During
11 the course of the conversation, Respondent failed to order Patient A to present to a medical
12 facility for further evaluation. The telephone calls from Patient A and his wife, with the
13 description of symptoms of abdominal pain, nausea and vomiting, rectal bleeding, and
14 melanemesis, required a good faith evaluation by a health care provider and hospital admission.

15 13. At approximately 12:09 p.m., Patient A telephonically contacted Respondent. Patient
16 A advised Respondent that he had taken Pepto-Bismol¹¹ instead of Maalox, and asked if that was
17 problematic. Respondent replied that there is no problem with taking Pepto-Bismol; however, it
18 will turn his stool black. The conversation then ended. Again, based on the information provided
19 from the previous telephone conversation, Respondent failed to order Patient A to a medical
20 facility for evaluation.

21 14. On or about November 19, 2018, Patient A died from complications associated with
22 the procedure performed by Respondent.

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24 ///

25 ¹⁰ Maalox is the brand name for a calcium carbonate medication. It is a widely available
26 non-prescription medicine, used as an antacid and for a variety of stomach related issues.

27 ¹¹ Pepto-Bismol is the brand name for a calcium carbonate medication. It is a widely
28 available non-prescription medicine, used as an antacid and for a variety of stomach related
issues.

1 On or about November 21, 2011, the Coroner for the County of Sacramento performed an
2 autopsy of Patient A, in which he concluded that the cause of Patient A's death was acute
3 hemorrhagic pancreatitis¹² following ERCP, due to cholelithiasis¹³ and choledocholithiasis.¹⁴

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Repeated Negligent Acts)**

6 16. Respondent's Physician's and Surgeon's Certificate No. G 44261 is subject to
7 disciplinary action under section 2234, subdivision (c), of the Code, in that Respondent
8 committed repeated negligent acts in his care and treatment of Patient A, as more particularly
9 alleged hereinafter:

10 17. Complainant re-alleges paragraphs 6 through 14, and those paragraphs are
11 incorporated by reference as if fully set forth therein.

12 18. Respondent committed repeated negligent acts in his care and treatment of Patient A,
13 as more particularly alleged hereinafter:

14 A. Failing to place a stent, during and after Patient A's ERCP, in the pancreatic
15 duct, and failing to provide a dose of indomethacin, in order to protect the patient from
16 pancreatitis; and

17 B. Failing to refer Patient A to obtain a good faith evaluation by a health care
18 provider and a hospital admission after receiving calls from Patient A and his wife with the
19 descriptions of his symptoms of abdominal pain, nausea and vomiting, rectal bleeding, and
20 melanemesis.

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24 _____
25 ¹² Acute hemorrhagic pancreatitis a condition caused by the destruction cells in the
26 pancreatic tissue, by their own enzymes, resulting in a rupture of blood vessels in the pancreas
and surrounding tissues.

27 ¹³ Cholelithiasis, also known as gallstones, is caused by hardened deposits of bile and
increased cholesterol secretion.


28 ¹⁴ Choledocholithiasis is the presence of a gallstone in the common bile duct.

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 G 44261, issued to Frank S. Reynolds, M.D.;
2. Revoking, suspending or denying approval of Frank S. Reynolds, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Frank S. Reynolds, 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: November 15, 2018


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

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