

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

<b>In the Matter of the Accusation</b>	)	
<b>Against:</b>	)	
	)	
	)	
<b>Neil Kenneth Goldstein, M.D.</b>	)	<b>Case No. 800-2016-022089</b>
	)	
<b>Physician's and Surgeon's</b>	)	
<b>Certificate No. G 84575</b>	)	
	)	
<b>Respondent</b>	)	
_____	)	

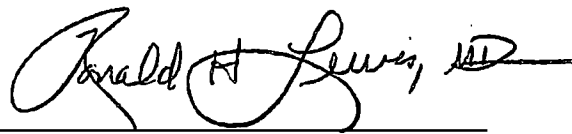
**DECISION**

**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 March 6, 2020.**

**IT IS SO ORDERED February 5, 2020.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
\_\_\_\_\_  
**Ronald H. Lewis, M.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 MARTIN W. HAGAN  
Deputy Attorney General  
4 State Bar No. 155553  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9405  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:  
14 **Neil Kenneth Goldstein, M.D.**  
8 San Sovino  
15 Newport Coast, CA 92657-1313  
16 **Physician's and Surgeon's Certificate**  
No. G 84575,  
17  
18 Respondent.

Case No. 800-2016-022089  
OAH No. 2019051305

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

21 **PARTIES**

- 22 1. Kimberly Kirchmeyer (Complainant) is the former Executive Director of the Medical  
23 Board of California (Board). She brought this action solely in her official capacity and is  
24 represented in this matter by Xavier Becerra, Attorney General of the State of California, by  
25 Martin W. Hagan, Deputy Attorney General.
- 26 2. Respondent Neil Kenneth Goldstein, M.D. (Respondent) is represented in this  
27 proceeding by Raymond J. McMahon, Esq., of Doyle Schafer & McMahon, whose address is:  
28 5440 Trabuco Road, Irvine, California 92620.



1 disciplinary action. Respondent further agrees to be bound by the Board's imposition of  
2 discipline as set forth in the Disciplinary Order below.

3 8. Respondent further agrees that if an accusation is filed against him before the Board,  
4 all of the charges and allegations contained in Accusation No. 800-2016-022089 shall be deemed  
5 true, correct and fully admitted by Respondent for purposes of that proceeding or any other  
6 licensing proceeding involving Respondent in the State of California or elsewhere.

7 **CONTINGENCY**

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

18 10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be  
19 null and void and not binding upon the parties unless approved and adopted by the Board, except  
20 for this paragraph, which shall remain in full force and effect. Respondent fully understands and  
21 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and  
22 Disciplinary Order, the Board may receive oral and written communications from its staff and/or  
23 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify  
24 the Board, any member thereof, and/or any other person from future participation in this or any  
25 other matter affecting or involving respondent. In the event that the Board does not, in its  
26 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the  
27 exception of this paragraph, it shall not become effective, shall be of no evidentiary value  
28 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party

1 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order  
2 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any  
3 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this  
4 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

5 **ADDITIONAL PROVISIONS**

6 11. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
7 be an integrated writing representing the complete, final and exclusive embodiment of the  
8 agreements of the parties in the above-entitled matter.

9 12. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,  
10 including copies of the signatures of the parties, may be used in lieu of original documents and  
11 signatures and, further, that such copies shall have the same force and effect as originals.

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

15 **DISCIPLINARY ORDER**

16 **A. PUBLIC REPRIMAND**

17 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 84575 issued  
18 to Respondent Neil Kenneth Goldstein, M.D., shall be and is hereby Publicly Reprimanded  
19 pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This  
20 Public Reprimand, issued in connection with the allegations and causes of discipline set forth in  
21 Accusation No. 800-2016-022089, is as follows:

22 You are hereby publicly reprimanded for the repeated negligent acts and  
23 failure to maintain adequate or accurate records concerning Patient A, which are set  
24 forth more fully in Accusation No. 800-2016-022089, a true and correct copy of  
25 which is attached hereto as Exhibit A and incorporated by reference as if fully set  
26 forth herein.

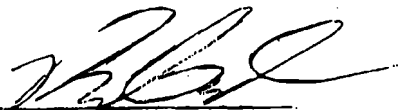
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28 ////



1 I have read and fully discussed with Respondent Neil Kenneth Goldstein, M.D., the terms  
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
3 Order. I approve its form and content.

4  
5 DATED: November 7, 2019

  
6 RAYMOND J. MCMAHON, ESQ.  
Attorney for Respondent

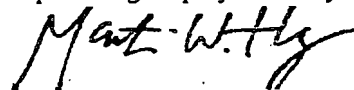
7  
8 **ENDORSEMENT**

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

11 DATED: November 12, 2019

Respectfully submitted,

12 XAVIER BECERRA  
13 Attorney General of California  
14 MATTHEW M. DAVIS  
Supervising Deputy Attorney General



15  
16 MARTIN W. HAGAN  
Deputy Attorney General  
17 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 800-2016-022089**



1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 MARTIN W. HAGAN  
Deputy Attorney General  
4 State Bar No. 155553  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9405  
7 Facsimile: (619) 645-2061

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO  
BY: [Signature] ANALYST  
JUL 2, 2019

8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2016-022089

14 **Neil Kenneth Goldstein, M.D.**  
15 **8 San Sovino**  
16 **Newport Coast, CA 92657-1313**

**A C C U S A T I O N**

16 **Physician's and Surgeon's Certificate**  
17 **No. G 84575,**

18 Respondent.

19 Complainant alleges:

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 June 5, 1998, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number G 84575 to Neil Kenneth Goldstein, M.D. (Respondent). The Physician's  
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on May 31, 2020, unless renewed.

28 ////

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 unless otherwise indicated.

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

8 5. Section 2234 of the Code states:

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

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

14 "...

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

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

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

27 "...

28 ////

1           “(f) Any action or conduct which would have warranted the denial of a  
2 certificate.

3           “....”

4           6. Section 2266 of the Code states:

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

8                                       CAUSE FOR DISCIPLINE

9                                       (Repeated Negligent Acts)

10          7. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined  
11 by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his  
12 care and treatment of patient A<sup>1</sup> as more particularly alleged hereinafter:

13          8. On or about January 28, 2014, respondent assumed the care and treatment of patient  
14 A, who was previously treated by another physician in respondent’s medical group. At the time  
15 that respondent assumed care, patient A was a then-78-year-old male with a recorded history of  
16 leg swelling (left leg greater than right leg) and varicose veins that had worsened over the last  
17 couple of years. Patient A’s surgical history included, but was not limited to, a previous lower  
18 extremity arterial vascularization on August 15, 2012, and a venous ablation and phlebectomy on  
19 February 12, 2013, both of which were performed by other physician in the medical group. The  
20 patient’s physical examination was notable for cold right foot and absent pedal (foot) pulses. A  
21 lower extremity arterial ultrasound of January 28, 2014, indicated “right SFA [superficial femoral  
22 artery] re-occlusion” in the thigh with reconstitution (re-establishment of flow) above the knee.  
23 The right ankle-brachial index (ABI) was documented as 0.61. The left leg showed a narrowing  
24 in the popliteal artery near the knee. The left ABI was normal at 1.03. Respondent recommended  
25 revascularization of both legs – right leg first and then left leg.

26 // //

27 \_\_\_\_\_  
28 <sup>1</sup> Patient A is being used in place of the patient’s name or initials to maintain patient confidentiality.

1           9. On or about February 6, 2014, respondent performed an atherectomy (minimally,  
2           invasive endovascular procedure to address atherosclerosis [plaque] in a blood vessel),  
3           angioplasty, and stenting for patient A's right leg without incident.

4           10. On or about February 18, 2014, respondent performed an atherectomy and  
5           angioplasty for patient A's left leg without incident.

6           11. On or about March 5, 2014, respondent had a post-procedure follow-up on patient A.  
7           The medical record for this visit listed the same history of present illness (HPI) as set forth in the  
8           visit of January 28, 2014 (36 days prior). The review of symptoms (ROS) showed no  
9           claudication (pain in a limb that can be associated with atherosclerosis; accumulation of plaque  
10          inside an artery or arteries) and the ROS for musculoskeletal was documented as "Doing well  
11          post intervention." The physical exam for the extremities noted, among other things, "[p]ulses  
12          diminished..." An arterial ultrasound of the same date showed a widely patent (viable) right  
13          SFA and left popliteal artery and normal ABI's of right 1.10 and left 1.13. The plan section of  
14          the medical record indicated "Doing well post bilat[erally] intervention and improved TBI [toe  
15          brachial index] bilat[erally]. Routine 3 month follow up."

16          12. On or about June 13, 2014, respondent had a follow-up appointment with patient A.  
17          The medical record for this visit, once again, listed the same history of present illness (HPI) as set  
18          forth in the visit of January 28, 2014 (151 days prior). There was no apparent claudication and  
19          the ROS for musculoskeletal was documented as "No complaints at this time, legs feel well,  
20          walking, normal activity." The physical exam for extremities noted "[p]ulses not palpable."  
21          Arterial ultrasound of the same date indicated narrowing in the right and left SFA with a right  
22          ABI of 0.87 (mildly abnormal) and left ABI of 0.99. Respondent recommended re-intervention  
23          for the right leg ("schedule for angio") with close follow up for patient A's left leg.

24          13. On or about June 23, 2014, respondent performed an atherectomy, angioplasty for  
25          patient A's pre-existing SFA stent, and additional stent placement for the distal SFA, all without  
26          incident.

27          14. On or about July 23, 2014, respondent had a post-procedure follow-up appointment  
28          with patient A. The medical record for this visit, once again, listed the same history of present

1 illness (HPI) as set forth in the visit of January 28, 2014 (176 days prior). The ROS showed no  
2 claudication and the ROS for musculoskeletal was documented as "[d]oing well, no complaints."  
3 The physical exam section of the medical record made no mention of pulses. Arterial ultrasound  
4 of the same date indicated a widely patent right SFA and a narrowing of the left SFA. The right  
5 ABI was normal at 1.16 and the left ABI was 0.54. Respondent recommended re-intervention for  
6 the left leg.

7 15. On or about August 18, 2014, occlusion of patient A's left SFA was confirmed  
8 through an arteriogram (imaging of the arteries). Respondent performed an atherectomy,  
9 angioplasty and stent placement without incident, which restored flow in the left SFA.

10 16. On or about September 10, 2014, respondent had a post-procedure follow-up  
11 appointment with patient A. The medical record for this visit listed the HPI as "Hypertension,  
12 AFIB." The ROS showed no claudication, the ROS for musculoskeletal indicated that the patient  
13 felt well, and the physical exam for extremities noted, among other things, "pulses diminished."  
14 The plan was documented as "[d]oing well post left leg intervention, stable right leg [and] 3  
15 month follow up.

16 17. On or about January 6, 2015, respondent had a follow-up appointment with patient A.  
17 The medical record for this visit listed the HPI as "Hypertension, AFIB." The ROS showed no  
18 claudication and the ROS for the musculoskeletal indicated "[d]enies joint or muscle pain, or  
19 back pain. Notes that feet look purple." Physical exam indicated, among other things, "Feet  
20 slightly cyanotic (bluish or purplish discoloration), right worse" and "pulses diminished."  
21 Arterial ultrasound of the same date indicated a narrowing of the right upper SFA with a right  
22 ABI of 0.66 and narrowing of the left SFA with ABI of 0.77. Respondent noted the "established  
23 problem" was worsening and recommended further ultrasound work up for venous reflux disease  
24 and arterial re-intervention of the right SFA.

25 18. On or about January 7, 2015, patient A underwent left leg arteriography followed by  
26 respondent performing an atherectomy and angioplasty of the right SFA.

27 19. On or about January 16, 2015, respondent had a post-procedure follow-up  
28 appointment with patient A. The medical record for this visit listed the same HPI ("Hypertension,

1 Affb") as the visit of January 6, 2015 (10 days prior). The ROS showed no claudication. The  
2 physical exam for extremities noted, among other things, diminished left femoral pulse and  
3 diminished pedal pulses bilaterally. An arterial ultrasound of the same date indicated a widely  
4 patent right SFA with a right ABI of 0.99 while the left leg showed equivocal narrowing of the  
5 common femoral artery with maintained normal arterial waveform and a left ABI of 0.70. There  
6 was no flow noted in the left great toe. Respondent was concerned about possible injury to the  
7 left common femoral artery and, therefore, ordered an arteriogram and possible revascularization  
8 of the left leg. The plan included, among other things, "possible intervention next available."

9 20. On or about January 22, 2015, patient A had an arteriogram followed by respondent  
10 performing an atherectomy and angioplasty of the left SFA without incident.

11 21. On or about February 6, 2015, respondent had a post-procedure follow-up  
12 appointment with patient A who had no complaints and was documented as "doing well" and had  
13 ABI's that were within normal limits. The plan included close follow up "due to aggressive  
14 recurrence of disease" with six week follow up with ultrasound and then every three months  
15 thereafter.

16 22. On or about March 20, 2015, respondent had a follow-up appointment with patient A  
17 who had no complaints and was documented as "doing well" and had ABI's that were within  
18 normal limits. The plan included three month follow up with arterial ultrasound bilaterally.

19 23. On or about June 19, 2015, respondent had a post-procedure follow up with patient A.  
20 The medical record for this visit listed the same HPI ("Hypertension, Afib") as the visit of  
21 January 6, 2015 (164 days prior). The ROS showed no claudication and the ROS for the  
22 musculoskeletal indicated "[patient] has no complaints at this time." The physical exam for  
23 extremities noted, among other things, "pulses not palpable." An arterial ultrasound of the same  
24 date indicated a narrowing in the upper right SFA with a right ABI of 0.73 and mild narrowing of  
25 the SFA in the left leg with an ABI of 0.83. Respondent recommended revascularization of the  
26 right leg.

27 24. On or about July 13, 2015, respondent performed an atherectomy, angioplasty, and  
28 placed a stent in the right popliteal artery without incident.

1           25. On or about July 21, 2015, respondent had a post-procedure follow-up appointment  
2 with patient A. The HPI was documented as "Hypertension, Afib, PVD." The ROS noted no  
3 claudication and the ROS for musculoskeletal indicated "No complaints, feels well." The  
4 physical exam failed to indicate whether there were any palpable pulses. An arterial ultrasound  
5 of the same date indicated a patent right SFA with a normal right ABI of 0.99 and the left leg  
6 showed mild narrowing in the SFA with an ABI of 0.80. Follow up was recommended in six  
7 weeks.

8           26. On or about September 2, 2015, respondent had a post-procedure follow-up  
9 appointment with patient A. The HPI ("Hypertension, Afib, PVD") was the same as July 21,  
10 2015 (43 days prior). The ROS noted no claudication and the ROS for musculoskeletal indicated  
11 "No complaints, feels well." The physical exam portion of the medical record indicated "pulses  
12 not palpable." An arterial ultrasound of the same date indicated a patent right SFA with a normal  
13 right ABI of 0.95 and the left leg showed narrowing in the upper SFA with an ABI of 0.70.  
14 Respondent noted that patient A has worsening left leg SFA stenosis (narrowing of the artery) and  
15 recommended revascularization of the left leg.

16           27. On or about September 18, 2015, respondent performed an atherectomy and  
17 angioplasty of the left leg without incident.

18           28. On or about October 2, 2015, respondent had a post-procedure follow-up appointment  
19 with patient A who reported "[b]oth legs feel better." An arterial ultrasound of the same date  
20 indicated patent SFA's and normal ABI's bilaterally. Respondent's plan was for a follow-up  
21 bilateral ultrasound in January 2016.

22           29. On or about January 5, 2016, respondent had his last visit with patient A. The HPI  
23 ("Hypertension, Afib, PVD") was the same as July 21, 2015 (168 days prior). The ROS noted no  
24 claudication and the ROS for musculoskeletal indicated "Swelling, fallen aches, bilat[erally]."  
25 The physical exam for extremities noted "pulses absent, mild edema, skin intact." An arterial  
26 ultrasound of the same date indicated in the upper right SFA with a right ABI of 0.57 and the left  
27 leg was patent with a normal ABI of 1.14. Respondent's plan was for revascularization of the  
28 right leg.





1 PRAYER

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


4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 84575,  
5 issued to Respondent Neil Kenneth Goldstein, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Neil Kenneth Goldstein,  
7 M.D.'s authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Respondent Neil Kenneth Goldstein, M.D., if placed on probation, to pay  
9 the Board the costs of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11  
12 DATED: April 2, 2019

  
13 KIMBERLY KIRCHMEYER  
14 Executive Director  
15 Medical Board of California  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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