

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

**In the Matter of the Accusation  
Against:**

**John Stirling, M.D.**

**Physician's and Surgeon's  
Certificate No. G 88086**

**Respondent.**

**Case No. 800-2016-021929**

**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 JUL 02 2020.**

**IT IS SO ORDERED JUN 25 2020.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**William Prasifka  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 LYNNE K. DOMBROWSKI  
Deputy Attorney General  
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2016-021929

13 **JOHN STIRLING, M.D.**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 1629 Granada Avenue  
San Diego, CA 92102-1435

15 Physician's and Surgeon's Certificate  
16 No. G 88086

17 Respondent.

18  
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. William Prasifka (Complainant) is the Executive Director of the Medical Board of  
23 California (Board). He brings this action solely in his official capacity and is represented in this  
24 matter by Xavier Becerra, Attorney General of the State of California, by Lynne K. Dombrowski,  
25 Deputy Attorney General.

26 2. John Stirling, M.D. (Respondent) is representing himself in this proceeding and has  
27 chosen not to exercise his right to be represented by counsel.  
28





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

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


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

7 4. If Respondent ever files an application for a new license or certification or a petition  
8 for reinstatement of a license in the State of California, the Board shall treat it as a petition for  
9 reinstatement. Respondent must comply with all the laws, regulations and procedures for  
10 reinstatement of a revoked or surrendered license in effect at the time the application or petition is  
11 filed, and all of the charges and allegations contained in Accusation No. 800-2016-021929 shall  
12 be deemed to be true, correct and admitted by Respondent when the Board determines whether to  
13 grant or deny the application or petition.

14  
15 **ACCEPTANCE**

16 I have carefully read the Stipulated Surrender of License and Order. I understand the  
17 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into  
18 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and  
19 agree to be bound by the Decision and Order of the Medical Board of California.

20  
21 DATED: 29 May 2020

  
22 JOHN STIRLING, M.D.  
23 Respondent

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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: 06/09/2020

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JANE ZACK SIMON  
Supervising Deputy Attorney General

*Lynne K. Dombrowski*  
LYNNE K. DOMBROWSKI  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2016-021929**

1 XAVIER BECERRA  
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2 JANE ZACK SIMON  
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3 LYNNE K. DOMBROWSKI  
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7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Dec. 11 2018  
BY SUN PANG ANALYST

8  
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:

Case No. 800-2016-021929

14 **JOHN STIRLING, M.D.**  
15 1629 Granada Avenue  
San Diego, CA 92102-1435

**ACCUSATION**

16 Physician's and Surgeon's Certificate  
17 No. G 88086,

Respondent.

18  
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 July 18, 2007, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number G 88086 to John Stirling, M.D. (Respondent). The Physician's and Surgeon's  
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
27 expire on May 31, 2019, unless renewed.  
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1           “(f) Any action or conduct which would have warranted the denial of a certificate.

2           “(g) The practice of medicine from this state into another state or country without meeting  
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
4 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
5 proposed registration program described in Section 2052.5.

6           “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
7 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
8 who is the subject of an investigation by the board.”

9           6.     Section 2228 of the Code states:

10           “The authority of the board or the California Board of Podiatric Medicine to discipline a  
11 licensee by placing him or her on probation includes, but is not limited to, the following:

12           “(a) Requiring the licensee to obtain additional professional training and to pass an  
13 examination upon the completion of the training. The examination may be written or oral, or  
14 both, and may be a practical or clinical examination, or both, at the option of the board or the  
15 administrative law judge.

16           “(b) Requiring the licensee to submit to a complete diagnostic examination by one or more  
17 physicians and surgeons appointed by the board. If an examination is ordered, the board shall  
18 receive and consider any other report of a complete diagnostic examination given by one or more  
19 physicians and surgeons of the licensee’s choice.

20           “(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including  
21 requiring notice to applicable patients that the licensee is unable to perform the indicated  
22 treatment, where appropriate.

23           “(d) Providing the option of alternative community service in cases other than violations  
24 relating to quality of care.”

25           7.     Section 2266 of the Code states: “The failure of a physician and surgeon to maintain  
26 adequate and accurate records relating to the provision of services to their patients constitutes  
27 unprofessional conduct.”

28

1           8.     California Penal Code sections 11164 *et seq.* are known as the Child Abuse and  
2 Neglect Reporting Act (“CANRA”).

3           9.     California Penal Code section 11165.7, subdivision (a) (21) provides that a licensed  
4 physician and surgeon is a “mandated reporter” under CANRA.

5           10.    California Penal Code section 11166 states, in pertinent part:

6           “(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter  
7 shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in  
8 his or her professional capacity or within the scope of his or her employment, has knowledge of  
9 or observes a child whom the mandated reporter knows or reasonably suspects has been the  
10 victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone  
11 to the agency immediately or as soon as is practically possible, and shall prepare and send, fax, or  
12 electronically transmit a written follow-up report within 36 hours of receiving the information  
13 concerning the incident. The mandated reporter may include with the report any nonprivileged  
14 documentary evidence the mandated reporter possesses relating to the incident.

15           “(1) For purposes of this article, “reasonable suspicion” means that it is objectively  
16 reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable  
17 person in a like position, drawing, when appropriate, on his or her training and experience, to  
18 suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse  
19 or neglect has occurred nor does it require a specific medical indication of child abuse or neglect;  
20 any “reasonable suspicion” is sufficient. . . .”

21           “...”

22           “(3) A report made by a mandated reporter pursuant to this section shall be known as a  
23 mandated report.

24           “...”

25           “(h) When two or more persons, who are required to report, jointly have knowledge of a  
26 known or suspected instance of child abuse or neglect, and when there is agreement among them,  
27 the telephone report may be made by a member of the team selected by mutual agreement and a  
28 single report may be made and signed by the selected member of the reporting team. Any

1 member who has knowledge that the member designated to report has failed to do so shall  
2 thereafter make the report.

3 “(i)(1) The reporting duties under this section are individual, and no supervisor or  
4 administrator may impede or inhibit the reporting duties, and no person making a report shall be  
5 subject to any sanction for making the report. . . .”

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct: Gross Negligence and/or Repeated Negligent Acts; Failure to**  
8 **Comply with CANRA Mandatory Reporting)**

9 11. Respondent John Stirling, M.D. is subject to disciplinary action for unprofessional  
10 conduct through gross negligence and/or repeated negligent acts under Business and Professions  
11 Code section 2234, subdivisions (b) and/or (c), and/or through failure to file a mandatory report  
12 under California Penal Code section 11166, as described herein.

13 12. On or about July 2, 2015, Patient A, a boy of about two-years-of age, was seen at the  
14 Emergency Department (“ED”) of O’Connor Hospital (“O’Connor”) in San Jose. The patient  
15 complained of right elbow pain and was diagnosed with a right supracondylar fracture and buckle  
16 fracture of the right distal radius. The examination of the left upper extremity was normal. The  
17 parents reported that Patient A fell backward while running on a tile floor. The patient’s right  
18 arm was splinted and follow-up was arranged with orthopedics.

19 13. The next day, on July 3, 2015, Patient A returned to the ED at O’Connor with a  
20 complaint of left arm pain and swelling of the left upper extremity. The parents said that they  
21 were not aware of any new falls and that the left arm swelling had developed about 20 minutes  
22 before they arrived at the hospital. The diagnosis was a left supracondylar fracture. A skeletal  
23 survey x-ray (a 10-view battered child series of x-rays of the chest, legs, skull) was obtained.

24 14. Patient A was transported by ambulance from O’Connor to Santa Clara Valley  
25 Medical Center (“SCVMC”) for pediatric orthopedic care. It was reported that physicians at  
26 O’Connor were also concerned about the possibility of non-accidental trauma (“NAT”).

27 15. On or about July 3, 2015 at about midnight, Respondent’s SCAN team partner, who  
28 was on-call as the child abuse expert, received a call from a pediatric physician at SCVMC who

1 examined Patient A and reviewed the case for orthopedic care and for further assessment of the  
2 possibility of a non-accidental trauma. The other SCAN team physician opined that Patient A's  
3 injuries were not likely to be non-accidental trauma, that the described mechanism of fall was  
4 consistent with the injuries, and that no report needed to be filed with Child Protective Services  
5 ("CPS").

6 16. Patient A was admitted overnight to the hospital for surgical repair. Repeated x-rays  
7 of the bilateral upper extremities were ordered at SCVMC.

8 17. Prior to Patient A's discharge on July 4, 2015, a SCVMC pediatric hospitalist  
9 reviewed the patient's history and contacted Respondent, who was the on-call child abuse expert  
10 at that time, for a telephone consultation about possible NAT. Respondent concluded that Patient  
11 A's injuries were most likely accidental trauma and that a CPS report was not recommended. The  
12 patient was discharged home with orthopedic follow-up scheduled. No report was filed with  
13 Child Protective Services. Respondent did not document this consultation.

14 18. On or about July 7, 2015, a SCVMC physician was notified by a radiologist that  
15 Patient A's skeletal survey x-rays from O'Connor showed a "late subacute fracture deformity in  
16 the distal metaphysis of the left femur." The radiologist noted that: "Combination of acute and  
17 late sub-acute or chronic fractures in the pediatric skeleton suspicious for non-accidental trauma.  
18 Recommend clinical correlation."

19 19. On or about July 7, 2015, Respondent received an e-mail from a SCVMC physician  
20 regarding concerns about the multiple fractures and about the newly reported femur fracture. The  
21 SCVMC ED physician also called and spoke with Respondent, who was the on-call child abuse  
22 expert, about Patient A. Respondent's opinion was that, although the femur fracture was not as  
23 characteristic an injury for the fall described, he still had an overall low index of suspicion for  
24 non-accidental trauma and did not feel that a CPS report was warranted. Respondent  
25 recommended that lab studies and screenings be done to test the patient's bone fragility. The labs  
26 were ordered and drawn and the results did not raise any concerns.

27 20. On or about November 16, 2015, the Chairman of the Pediatrics Department at  
28 SCVMC contacted the other SCAN team physician about concerns raised by orthopedic

1 physicians about Patient A's case, the combination of known treated injuries, and the possibility  
2 of NAT, and asked that the physician perform a chart review.

3 21. On or about November 17, 2015, the other SCAN team physician reported, after her  
4 chart review, that it was her opinion that a report to Child Protective Services ("CPS") was  
5 warranted. Respondent discussed the case by email with his SCAN team partner and it was  
6 agreed that Respondent would file the CPS report. Respondent stated that he would "follow up  
7 tomorrow" with the report to CPS about Patient A.

8 22. On or about November 17, 2015, the Chairman of the SCVMC Pediatrics Department  
9 was informed that Respondent would report Patient A's case to CPS.

10 23. On or about December 22, 2015, Respondent was contacted by his SCAN team  
11 partner because a CPS report was not filed on Patient A. Respondent admitted that he had not  
12 filed a CPS report.

13 24. On or about December 24, 2015, Respondent posted a note in Patient A's chart in  
14 which he stated that "there was a low expectation of non-accidental trauma in this case." He did  
15 not mention the occult femur fracture, which had raised concerns and had prompted subsequent  
16 review of the case.

17 25. Respondent never filed a report with Child Protective Services about suspected child  
18 abuse of Patient A.

19 26. On or about January 16, 2016, Patient A was found dead at home as the result of a  
20 suspected homicide with evidence of physical and sexual abuse.

21 27. Respondent is guilty of unprofessional conduct through gross negligence and/or  
22 repeated negligent acts, under Business and Professions Code sections 2234, subdivisions (b)  
23 and/or (c), as follows:

- 24 a. Respondent failed to make a mandatory report to the appropriate agency under  
25 California Penal Code section 11166 when he had, or should have had, a reasonable  
26 suspicion to suspect child abuse or neglect.
- 27 b. Respondent failed to file a CPS report with regard to Patient A after he agreed to file  
28 the report for the SCAN team.

- 1 c. When notified of his failure to file a CPS report, Respondent did not file the report.  
2 d. Respondent failed to adequately document his communications and/or consultations  
3 regarding Patient A.  
4

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct: Failure to Maintain Adequate and Accurate Records)**

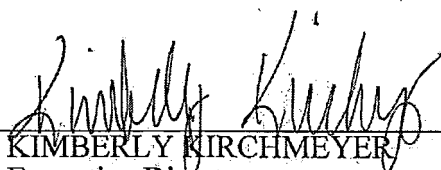
7 28. Respondent John Stirling, M.D. is subject to disciplinary action for unprofessional  
8 conduct under section 2266 for failing to maintain adequate and accurate records with regard to  
9 Patient A. Paragraphs 11 through 27 are incorporated herein by reference as if fully set forth.  
10

11 **PRAYER**

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

- 14 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 88086,  
15 issued to John Stirling, M.D.;
- 16 2. Revoking, suspending or denying approval of John Stirling, M.D.'s authority to  
17 supervise physician assistants and advanced practice nurses;
- 18 3. Ordering John Stirling, M.D., if placed on probation, to pay the Board the costs of  
19 probation monitoring; and
- 20 4. Taking such other and further action as deemed necessary and proper.  
21

22  
23 DATED: December 11, 2018

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

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