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

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| In the Matter of the Accusation Against:<br><br>Tristan Emily Bickman, M.D.<br><br>Physician's & Surgeon's Certificate No. A 61840<br><br>Respondent. | Case No. 800-2017-037828 |

## 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 August 27, 2020.

IT IS SO ORDERED July 28, 2020.

MEDICAL BOARD OF CALIFORNIA

Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
REBECCA L. SMITH
Deputy Attorney General
State Bar No. 179733
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6475
Facsimile: (916) 731-2117
*Attorneys for Complainant*

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

| In the Matter of the Accusation Against:<br><br>TRISTAN EMILY BICKMAN, M.D.<br>1304 15th Street, Suite 100<br>Santa Monica, California 90404<br><br>Physician's and Surgeon's Certificate<br>No. A 61840,<br><br>Respondent. | Case No. 800-2017-037828<br><br>OAH No. 2020010734<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** |
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IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

**PARTIES**

1. Christine J. Lally ("Complainant") is the Interim Executive Director of the Medical Board of California ("Board"). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Rebecca L. Smith, Deputy Attorney General.

2. Respondent Tristan Emily Bickman, M.D. ("Respondent") is represented in this proceeding by attorney Kent T. Brandmeyer and Jeannette Van Horst whose address is: 2 North Lake Avenue, Suite 820, Pasadena, California 91101.

3. On or about March 21, 1997, the Board issued Physician's and Surgeon's Certificate No. A 61840 to Tristan Emily Bickman, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-037828, and will expire on August 31, 2020, unless renewed.

## JURISDICTION

Accusation No. 800-2017-037828 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 24, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2017-037828 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-037828. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 800-2017-037828 and that she has thereby subjected her license to disciplinary action.

9. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the imposition of discipline by the Board as set forth in the Disciplinary Order below.

## CONTINGENCY

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

11. The parties understand and agree that Portable Document Format ("PDF") and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

**A. PUBLIC REPRIMAND.**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 61840 issued to Respondent TRISTAN EMILY BICKMAN, M.D. is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's care and treatment of Patient 1 as set forth in Accusation No. 800-2017-037828, is as follows:

> From October 2015 through March 2016, you committed acts constituting negligence in violation of Business and Professions Code section 2234,

subdivision (c), in your care and treatment of Patient 1, by failing to obtain written consent for intrauterine insemination ("IUI") treatments, failing to provided Patient 1 with written information about the risks and benefits of Clomid and document it in her chart; and failing to provide Patient 1 with an established written protocol for scheduling IUI treatments, as set forth in Accusation No. 800-2017-037828.

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

Respondent shall submit a certification of successful completion to the Board or its designee not later than fifteen (15) calendar days after successfully completing the educational program(s) or course(s), or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

If Respondent fails to enroll, participate in, or successfully complete the educational program(s) or course(s) within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume the practice of medicine until enrollment or participation in the educational program(s) or course(s) has been completed. Failure to successfully complete the educational program(s) or course(s) outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

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C. **MEDICAL RECORD KEEPING COURSE.** Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education ("CME") requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than fifteen (15) calendar days after successfully completing the course, or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

If Respondent fails to enroll, participate in, or successfully complete the medical record keeping course within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume the practice of medicine until enrollment or participation in the medical record keeping course has been completed. Failure to successfully complete the medical record keeping course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

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## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, Kent T. Brandmeyer and Jeannette Van Horst. 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: 5/27/20

TRISTAN EMILY BICKMAN, M.D.
*Respondent*

I have read and fully discussed with Respondent Tristan Emily Bickman, 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: 5/28/2020

KENT T. BRANDMEYER
JEANNETTE VAN HORST
*Attorneys for Respondent*

## ENDORSEMENT

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

DATED: 05/28/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

REBECCA L. SMITH
Deputy Attorney General
*Attorneys for Complainant*

# Exhibit A

**Accusation No. 800-2017-037828**

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
REBECCA L. SMITH
Deputy Attorney General
State Bar No. 179733
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6475
Facsimile: (916) 731-2117
*Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 24 2019
BY: Anna Logan ANALYST

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

| In the Matter of the Accusation Against: | Case No. 800-2017-037828 |
|---|---|
| TRISTAN EMILY BICKMAN, M.D.<br>1304 15th Street, Suite 100<br>Santa Monica, California 90404<br><br>Physician's and Surgeon's Certificate<br>No. A 61840,<br><br>Respondent. | **ACCUSATION** |

## PARTIES

1. Christine J. Lally ("Complainant") brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").

2. On or about March 21, 1997, the Medical Board issued Physician's and Surgeon's Certificate Number A 61840 to Tristan Emily Bickman, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2020, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board under the authority of the following provisions of the California Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

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

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

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

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

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

"..."

5. Section 2227 of the Code states:

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

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

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

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

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

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

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

6. 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:

"...

"(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.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but 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.

"..."

7. Section 2266 of the Code states:

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

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## FACTUAL SUMMARY

8. Patient 1,[1] a 39-year old woman, was initially seen by Respondent on July 15, 2015 for infertility treatment. In her consultation note, Respondent noted that Patient 1 had been trying to conceive for the last 8 months. Respondent did not document an impression or plan nor did she document that the risks and benefits of intrauterine insemination ("IUI")[2] were discussed with Patient 1. Further, no written informed consent was obtained from Patient 1 for IUI.

9. On September 25, 2015, Respondent documented that Patient 1 was seen for an ultrasound and that Clomid[3] was prescribed. Respondent did not document any discussion regarding the potential side effects of Clomid.

10. From October 2015 through March 2016, Patient 1 completed four cycles of IUI with Respondent. Before each cycle of IUI, Respondent used ultrasound monitoring to estimate the IUI timing. She did not perform human chorionic gonadotropin ("hCG")[4] injections or have Patient 1 use an at-home ovulation kit test as part of the IUI timing.

11. Respondent did not have a written protocol for IUI in her office at the time of Patient 1's treatment nor did she have a written protocol for IUI in her office at the time of her interview with the Board on May 30, 2019.

12. On October 2, 2015, Respondent performed an ultrasound and noted that the patient's IUI would take place in four days. Patient 1's first cycle of IUI took place on October 6, 2015 and October 7, 2015. On October 6, 2015, Respondent noted that the IUI was performed without difficulty and the patient would return on October 7, 2015 for second IUI. On October 7, 2015,

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[1] For privacy purposes, the patient in this Accusation is referred to as Patient 1, with the identity of the patient disclosed to Respondent in discovery.

[2] IUI is a type of artificial insemination for treating infertility. Sperm that have been washed and concentrated are placed directly into the uterus around the time the patient's ovary releases one or more eggs to be fertilized.

[3] Clomid is a fertility medication that stimulates ovulation.

[4] Human chorionic gonadotropin ("hCG") is a follicle stimulating hormone injected prior to an IUI cycle. Once follicles reach a certain size, hCG is administered to cause ovulation with IUI performed one or two days after the hCG injection.

Respondent noted that the IUI was performed without difficulty and that the patient would follow up as needed.

13. On January 19, 2016, Respondent documented that Patient 1 was seen for an ultrasound and that Clomid was prescribed.

14. On January 25, 2016, Respondent peformed an ultrasound. Patient 1's second cycle of IUI took place on January 27, 2016. Respondent noted that the IUI was performed without difficulty.[5]

15. On February 22, 2016, Respondent performed an ultrasound. Clomid was not prescribed because the patient presented to Respondent's office during ovulation. Patient 1's third cycle of IUI took place on February 23, 2016 and February 24, 2016. For both visits, Respondent noted that the IUI was performed without difficulty.[6]

16. On March 14, 2016, Respondent performed an ultrasound and prescribed Clomid.

17. On March 21, 2016, Respondent performed an ultrasound. Patient 1's fourth cycle of IUI took place on March 22, 2016 and March 23, 2016. For both visits, Respondent noted that the IUI was performed without difficulty.

18. Following the fourth cycle of IUI performed by Respondent, Patient 1 sought infertility treatment with another health care provider.

## STANDARD OF CARE

19. When an obstetrician and gynecologist offers a patient IUI treatment, the standard of care requires that the physician discuss the risks and benefits of the treatment with the patient and that the discussion be memorialized with a written informed consent for IUI treatment signed by the patient.

20. When an obstetrician and gynecologist recommends the use of Clomid in conjunction with IUI treatment, the standard of care requires that the physician discuss the potential side

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[5] At the time of her interview with the Board, Respondent stated that she also performed IUI on January 26, 2016.

[6] Respondent did not produce the chart entry for February 24, 2016; however, Patient 1 provided the Board with a copy of the February 24, 2016 chart entry.

effects of the medication with the patient and memorialize that discussion as part of the written informed consent for IUI treatment.

21. When an obstetrician and gynecologist offers a patient IUI treatment, the standard of care requires that the physician provide the patient with an established written protocol for scheduling IUI so that the patient understands the details of the treatment in advance.

22. IUI treatment requires timing in order to optimize the effectiveness of insemination. Timing can be performed by home ovulation kit test or the use of hCG injection.

a. In the case of ovulation kit testing, the patient is instructed to check home urinary ovulation predictor kit testing until there is a change in color indicating impending ovulation and the IUI is to be scheduled within 24-hours of a positive kit change.

b. In the case of hCG injection for timing, ultrasound tracking is performed every 2-3 days to define a window for mature follicles and hCG subcutaneous injection is administered approximately 2 days prior to IUI.

23. While it is reasonable to offer a patient a second IUI in a treatment cycle, there is no clear benefit of a second IUI in a treatment cycle and the patient should be informed that there is no clear benefit of a second IUI in a treatment cycle.

## FIRST CAUSE FOR DISCIPLINE

### (Repeated Negligent Acts)

24. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that she engaged in repeated acts of negligence in the care and treatment of Patient 1. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 23, above, as though fully set forth herein. The circumstances are as follows:

25. Respondent failed to document that she discussed the risks and benefits of IUI treatment with Patient 1 and failed to obtain Patient 1's written informed consent for IUI treatment.

26. Respondent failed to document that she discussed the potential side effects of Clomid with Patient 1.

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27. Respondent failed to provide Patient 1 with an established written protocol for scheduling IUI in order to assist the patient in understanding the details of the treatment in advance.

28. In administering four cycles of IUI treatment to Patient 1, Respondent failed to properly time the treatments by way of ovulation kit test or the use of hCG injections, in order to optimize the effectiveness of insemination.

29. While Respondent offered and performed a second IUI during each of Patient 1's four IUI cycles, she failed to inform Patient 1 that there is no clear benefit of a second IUI in a treatment cycle.

30. Respondent's acts and/or omissions as set forth in 8 through 29, above, whether proven individually, jointly, or in any combination thereof, constitute repeated acts of negligence pursuant to section 2234, subdivision (c), of the Code. Therefore cause for discipline exists.

## SECOND CAUSE FOR DISCIPLINE

**(Failure to Maintain Adequate Records)**

31. Respondent's license is subject to disciplinary action under section 2266 of the Code in that she failed to maintain adequate records concerning the care and treatment of Patient 1.

32. Complainant refers to and, by this reference, incorporates Paragraphs 8 through 21, above, as though set forth fully herein.

## 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 61840, issued to Tristan Emily Bickman, M.D.;

2. Revoking, suspending or denying approval of Tristan Emily Bickman, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Tristan Emily Bickman, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: December 24, 2019

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
*Complainant*

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