

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

In the Matter of the Accusation Against:

Eric Stephan Schmidt, M.D.

**Physician's and Surgeon's
License No. G 52901**

Case No. 800-2017-032185

Respondent.

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 October 23, 2020.

IT IS SO ORDERED: September 23, 2020.

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
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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 **ERIC STEPHAN SCHMIDT, M.D.**
16 525 Doyle Park Dr. Suite 101
Santa Rosa, CA 95405

17 Physician's and Surgeon's Certificate No. G
18 52901

19 Respondent.

Case No. 800-2017-032185

OAH No. 2020020969

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Christine J. Lally ("Complainant") was the Interim Executive Director of the Medical
25 Board of California ("Board"). She brought this action solely in her official capacity and the
26 Board is represented in this matter by Xavier Becerra, Attorney General of the State of California,
27 by John S. Gatschet, Deputy Attorney General. The current Executive Director of the Medical
28 Board of California is William Prafiska, who now succeeds Christine Lally as the Complainant.

1 2. Respondent Eric Stephan Schmidt, M.D. ("Respondent") is represented in this
2 proceeding by attorney Adam Slote of Slote, Links & Boreman, LLP whose address is: One
3 Embarcadero Center, Suite 400, San Francisco, CA 94111

4 3. On or about July 2, 1984, the Board issued Physician's and Surgeon's Certificate No.
5 G 52901 to Eric Stephan Schmidt, M.D. ("Respondent"). The Physician's and Surgeon's
6 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
7 No. 800-2017-032185, and will expire on August 31, 2021, unless renewed.

8 JURISDICTION

9 4. Accusation No. 800-2017-032185 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on January 16, 2020. Respondent timely filed his Notice of
12 Defense contesting the Accusation.

13 5. A copy of Accusation No. 800-2017-032185 is attached as exhibit A and incorporated
14 herein by reference.

15 ADVISEMENT AND WAIVERS

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2017-032185. Respondent has also carefully read,
18 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

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

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

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2017-032185, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For purposes of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a *prima*
7 *facie* case with respect to the charges and allegations in Accusation No. 800-2017-032185, a true
8 and correct copy of which is attached hereto as Exhibit A, and that Respondent hereby gives up
9 his right to contest those charges.

10 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
11 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
12 Disciplinary Order below.

13 RESERVATION

14 12. The admissions made by Respondent herein are only for the purposes of this
15 proceeding, or any other proceedings in which the Medical Board of California or other
16 professional licensing agency is involved, and shall not be admissible in any other criminal or
17 civil proceeding.

18 CONTINGENCY

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

1 14. Respondent agrees that if he ever petitions for early termination or modification of
2 probation, or if an accusation and/or petition to revoke probation is filed against him before the
3 Board, all of the charges and allegations contained in Accusation No. 800-2017-032185 shall be
4 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
5 any other licensing proceeding involving Respondent in the State of California.

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

9 16. In consideration of the foregoing admissions and stipulations, the parties agree that
10 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
11 enter the following Disciplinary Order:

DISCIPLINARY ORDER

12 **IT IS HEREBY ORDERED** that Physician’s and Surgeon’s Certificate No. G 52901
13 issued to Respondent Eric Stephan Schmidt, M.D. is revoked. However, the revocation is stayed
14 and Respondent is placed on probation for five (5) years on the following terms and conditions:

15 1. COMMUNITY SERVICE - FREE SERVICES. Within 60 calendar days of the
16 effective date of this Decision, Respondent shall submit to the Board or its designee for prior
17 approval a community service plan in which Respondent shall, within the first 3 years of
18 probation, provide 150 hours of free services (e.g., medical or nonmedical) to a community or
19 non-profit organization. This community service condition must be completed, with proof to the
20 Board, prior to the filing of any petition pursuant to Business and Professions Code section 2307.

21 Prior to engaging in any community service, Respondent shall provide a true copy of the
22 Decision(s) to the chief of staff, director, office manager, program manager, officer, or the chief
23 executive officer at every community or non-profit organization where Respondent provides
24 community service and shall submit proof of compliance to the Board or its designee within 15
25 calendar days. This condition shall also apply to any change(s) in community service.

26 Community service performed prior to the effective date of the Decision shall not be
27 accepted in fulfillment of this condition.
28

1 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
2 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
3 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
4 Respondent shall participate in and successfully complete that program. Respondent shall
5 provide any information and documents that the program may deem pertinent. Respondent shall
6 successfully complete the classroom component of the program not later than six (6) months after
7 Respondent's initial enrollment, and the longitudinal component of the program not later than the
8 time specified by the program, but no later than one (1) year after attending the classroom
9 component. The professionalism program shall be at Respondent's expense and shall be in
10 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

11 A professionalism program taken after the acts that gave rise to the charges in the
12 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
13 or its designee, be accepted towards the fulfillment of this condition if the program would have
14 been approved by the Board or its designee had the program been taken after the effective date of
15 this Decision.

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than 15 calendar days after successfully completing the program or not later
18 than 15 calendar days after the effective date of the Decision, whichever is later.

19 3. MONITORING - BILLING. Within 30 calendar days of the effective date of this
20 Decision, Respondent shall submit to the Board or its designee for prior approval as a billing
21 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
22 licenses are valid and in good standing, and who are preferably American Board of Medical
23 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
24 relationship with Respondent, or other relationship that could reasonably be expected to
25 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
26 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
27 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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1 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
2 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
3 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
4 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
5 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
6 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
7 signed statement for approval by the Board or its designee.

8 Within 60 calendar days of the effective date of this Decision, and continuing throughout
9 probation, Respondent's billing services shall be monitored by the approved monitor.
10 Respondent shall make all records available for immediate inspection and copying on the
11 premises by the monitor at all times during business hours and shall retain the records for the
12 entire term of probation.

13 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
14 date of this Decision, Respondent shall receive a notification from the Board or its designee to
15 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
16 shall cease the practice of medicine until a monitor is approved to provide monitoring
17 responsibility.

18 The monitor(s) shall submit a quarterly written report to the Board or its designee, which
19 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
20 are within the standards of practice of billing and whether Respondent is billing appropriately. It
21 shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly
22 written reports to the Board or its designee within 10 calendar days after the end of the preceding
23 quarter.

24 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
25 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
26 name and qualifications of a replacement monitor who will be assuming that responsibility within
27 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
28 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a

1 notification from the Board or its designee to cease the practice of medicine within three (3)
2 calendar days after being so notified. Respondent shall cease the practice of medicine until a
3 replacement monitor is approved and assumes monitoring responsibility.

4 In lieu of a monitor, Respondent may participate in a professional enhancement program
5 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
6 review, semi-annual practice assessment, and semi-annual review of professional growth and
7 education. Respondent shall participate in the professional enhancement program at Respondent's
8 expense during the term of probation.

9 4. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
10 treating workers compensation patients. After the effective date of this Decision, all workers
11 compensation patients being treated by the Respondent shall be notified that the Respondent is
12 prohibited from treating workers compensation patients. Any new workers compensation patients
13 must be provided this notification at the time of their initial appointment. Respondent shall refer
14 workers compensation patients to another physician for treatment.

15 Respondent shall maintain a log of all patients to whom the required oral notification was
16 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
17 medical record number, if available; 3) the full name of the person making the notification; 4) the
18 date the notification was made; and 5) a description of the notification given. Respondent shall
19 keep this log in a separate file or ledger, in chronological order, shall make the log available for
20 immediate inspection and copying on the premises at all times during business hours by the Board
21 or its designee, and shall retain the log for the entire term of probation.

22 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
23 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
24 Chief Executive Officer at every hospital where privileges or membership are extended to
25 Respondent, at any other facility where Respondent engages in the practice of medicine,
26 including all physician and locum tenens registries or other similar agencies, and to the Chief
27 Executive Officer at every insurance carrier which extends malpractice insurance coverage to

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1 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
2 calendar days.

3 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

4 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
5 governing the practice of medicine in California and remain in full compliance with any court
6 ordered criminal probation, payments, and other orders.

7 7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
8 under penalty of perjury on forms provided by the Board, stating whether there has been
9 compliance with all the conditions of probation.

10 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
11 of the preceding quarter.

12 8. GENERAL PROBATION REQUIREMENTS.

13 Compliance with Probation Unit

14 Respondent shall comply with the Board's probation unit.

15 Address Changes

16 Respondent shall, at all times, keep the Board informed of Respondent's business and
17 residence addresses, email address (if available), and telephone number. Changes of such
18 addresses shall be immediately communicated in writing to the Board or its designee. Under no
19 circumstances shall a post office box serve as an address of record, except as allowed by Business
20 and Professions Code section 2021, subdivision (b).

21 Place of Practice

22 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
23 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
24 facility.

25 License Renewal

26 Respondent shall maintain a current and renewed California physician's and surgeon's
27 license.

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1 Travel or Residence Outside California

2 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
3 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
4 (30) calendar days.

5 In the event Respondent should leave the State of California to reside or to practice
6 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
7 departure and return.

8 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
9 available in person upon request for interviews either at Respondent's place of business or at the
10 probation unit office, with or without prior notice throughout the term of probation.

11 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
14 defined as any period of time Respondent is not practicing medicine as defined in Business and
15 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
16 patient care, clinical activity or teaching, or other activity as approved by the Board. If
17 Respondent resides in California and is considered to be in non-practice, Respondent shall
18 comply with all terms and conditions of probation. All time spent in an intensive training
19 program, which has been approved by the Board, or its designee shall not be considered non-
20 practice and does not relieve Respondent from complying with all the terms and conditions of
21 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
22 on probation with the medical licensing authority of that state or jurisdiction shall not be
23 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
24 period of non-practice.

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
28 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model

1 Disciplinary Orders and Disciplinary Guidelines” prior to resuming the practice of medicine.

2 Respondent’s period of non-practice while on probation shall not exceed two (2) years.

3 Periods of non-practice will not apply to the reduction of the probationary term.

4 Periods of non-practice for a Respondent residing outside of California will relieve
5 Respondent of the responsibility to comply with the probationary terms and conditions with the
6 exception of this condition and the following terms and conditions of probation: Obey All Laws;
7 General Probation Requirements; and Quarterly Declarations.

8 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
9 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
10 completion of probation. Upon successful completion of probation, Respondent’s certificate shall
11 be fully restored.

12 Respondent shall provide the Board with proof of full payment of all Court ordered
13 restitution, fines and fees, in the case entitled *People of the State of California vs. Eric Stephan*
14 *Schmidt*, Case No. 17CF0807, to the Board not later than 120 calendar days prior to the
15 completion of probation. Failure to provide proof of full payment of all Court ordered restitution,
16 fines, and fees, shall be treated as a violation of probation.

17 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
18 of probation is a violation of probation. If Respondent violates probation in any respect, the
19 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
20 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
21 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
22 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
23 the matter is final.

24 13. LICENSE SURRENDER. Following the effective date of this Decision, if
25 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
26 the terms and conditions of probation, Respondent may request to surrender his or her license.
27 The Board reserves the right to evaluate Respondent’s request and to exercise its discretion in
28 determining whether or not to grant the request, or to take any other action deemed appropriate

1 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
2 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
3 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
4 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
5 application shall be treated as a petition for reinstatement of a revoked certificate.

6 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
7 with probation monitoring each and every year of probation, as designated by the Board, which
8 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
9 California and delivered to the Board or its designee no later than January 31 of each calendar
10 year.

11 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
12 a new license or certification, or petition for reinstatement of a license, by any other health care
13 licensing action agency in the State of California, all of the charges and allegations contained in
14 Accusation No. 800-2017-032185 shall be deemed to be true, correct, and admitted by
15 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
16 restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Adam Slote. 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: 07 / 29 / 2020 *Eric S Schmidt MD*

ERIC STEPHAN SCHMIDT, M.D.
Respondent

I have read and fully discussed with Respondent Eric Stephan Schmidt, 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: 07 / 29 / 2020 *Adam Slote*

ADAM SLOTE
Slote, Links & Boreman, LLP
Attorney for Respondent

ENDORSEMENT

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

DATED: 7.30-20

Respectfully submitted,

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

[Signature]
JOHN S. GATSCHET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-032185

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
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7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

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10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
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14 In the Matter of the Accusation Against:

Case No. 800-2017-032185

15 **Eric Stephan Schmidt, M.D.**
525 Doyle Park Dr. Suite 101
16 Santa Rosa, CA 95405

ACCUSATION

17 Physician's and Surgeon's Certificate No. G 52901,
18 Respondent.

19
20 **PARTIES**

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

24 2. On or about July 2, 1984, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 52901 to Eric Stephan Schmidt, 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 August 31, 2021, unless renewed.

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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 2234 of the Code, states:

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

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

11 ...

12 (e) The commission of any act involving dishonesty or corruption, which is
13 substantially related to the qualifications, functions, or duties of a physician and
14 surgeon.

15 ...

16 5. Section 2236 of the Code states:

17 (a) The conviction of any offense substantially related to the qualifications,
18 functions, or duties of a physician and surgeon constitutes unprofessional conduct
19 within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record
20 of conviction shall be conclusive evidence only of the fact that the conviction
21 occurred.

22 (b) The district attorney, city attorney, or other prosecuting agency shall notify
23 the Medical Board of the pendency of an action against a licensee charging a felony
24 or misdemeanor immediately upon obtaining information that the defendant is a
25 licensee. The notice shall identify the licensee and describe the crimes charged and
26 the facts alleged. The prosecuting agency shall also notify the clerk of the court in
27 which the action is pending that the defendant is a licensee, and the clerk shall record
28 prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall,
within 48 hours after the conviction, transmit a certified copy of the record of
conviction to the board. The division may inquire into the circumstances surrounding
the commission of a crime in order to fix the degree of discipline or to determine if
the conviction is of an offense substantially related to the qualifications, functions, or
duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is
deemed to be a conviction within the meaning of this section and Section 2236.1.
The record of conviction shall be conclusive evidence of the fact that the conviction
occurred.

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1 6. California Code of Regulations, title 16, section 1360, states:

2 For the purposes of denial, suspension or revocation of a license, certificate or
3 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime
4 or act shall be considered to be substantially related to the qualifications, functions or
5 duties of a person holding a license, certificate or permit under the Medical Practice
6 Act if to a substantial degree it evidences present or potential unfitness of a person
7 holding a license, certificate or permit to perform the functions authorized by the
8 license, certificate or permit in a manner consistent with the public health, safety or
9 welfare. Such crimes or acts shall include but not be limited to the following:
10 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
11 violation of, or conspiring to violate any provision of the Medical Practice Act.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Conviction of a Crime)**

14 7. Respondent's license is subject to disciplinary action under sections 2234,
15 subdivision (a), and 2236 of the Code, and under Title 16 of the California Code of Regulations
16 section 1360 in that he was convicted of a crime substantially related to the qualifications,
17 functions and duties of a person licensed to practice medicine. The circumstances are as follows:

18 8. On or about September 9, 2012, to August 12, 2015, Monarch Medical Group and
19 King Medical Management made payments to Respondent for him to refer his patients for urine
20 toxicology tests, to prescribe oral medications, and to dispense compound creams. For example,
21 during that period, Respondent referred patients to One Source Laboratories for quantitative urine
22 drug testing. Additionally, Respondent prescribed compound creams from Steven's Pharmacy to
23 his patients. Respondent did not incur any out of pocket expenses for any of the items that he
24 prescribed or dispensed because Monarch Medical Group provided them to him free of charge.
25 The companies then fraudulently billed the California Workmen's Compensation Program and
26 other insurance entities for the products that Respondent ordered, dispensed, and prescribed. On
27 April 20, 2017, the Orange County District Attorney's Office announced felony criminal charges
28 against Monarch Medical Group for insurance fraud, false and fraudulent claims, fee splitting,
and improper patient referrals. As part of the charges, Steven's Pharmacy and One Source
Laboratories, among other companies, were identified as improperly operating with Monarch
Medical Group in an insurance fraud scheme.

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1 9. On or about April 3, 2017, the Orange County District Attorney's Office filed a 24-
2 count felony complaint in the *People of the State of California vs. Eric Stephan Schmidt*, in the
3 Superior Court of California, County of Orange, alleging fraud, false claims, and rebates for
4 patient referrals, in case number 17CF0807. On or about February 6, 2019, Respondent pled no
5 contest to a misdemeanor violation of Penal Code section 650, rebates for patient referrals. The
6 District Attorney's Office dismissed the remaining charges, counts, and enhancements in
7 exchange for his plea. The Respondent stipulated to the following factual basis in support of his
8 plea:

9 On or between April 4, 2014, and September 1, 2015, I was a physician licensed to
10 practice medicine in California. I accepted consideration as compensation to refer patients
11 to Steven's Pharmacy in O.C., Tanya Moreland King, and her business, Monarch Medical
Group, Inc.

12 10. Because of his plea, the Court sentenced Respondent to three years' informal
13 probation, ordered to pay fines and fees, and make restitution. In particular, the Court ordered
14 Respondent to pay \$308,112.11 in restitution to the Orange County District Attorney's Office's
15 Monarch Restitution Fund and donate \$31,000.00 to the victim witness emergency fund.
16 Respondent was ordered to pay the restitution and the donation on February 6, 2019. The Court
17 also ordered that Respondent could not treat workers compensation patients for three years
18 starting on May 1, 2019.

19 11. As noted above, Respondent's license is subject to disciplinary action in that he was
20 convicted of a crime substantially related to the practice of medicine.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Dishonest and Corrupt Act)**

23 12. Respondent's license is subject to disciplinary action under section 2234, subdivision
24 (e) in that Respondent committed a dishonest and corrupt act. The circumstances are as follows:

25 13. Complainant realleges paragraphs 7 through 11, and those paragraphs are
26 incorporated by reference as if fully set forth herein.

27 14. As noted above, Respondent's license is subject to disciplinary action in that he
28 committed a dishonest and corrupt act by receiving compensation for patient referrals.

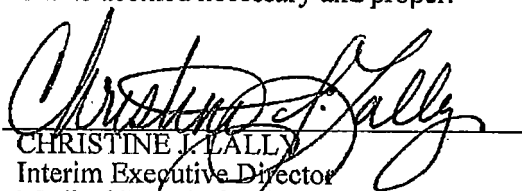
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PRAYER

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 52901, issued to Eric Stephan Schmidt, M.D.;
2. Revoking, suspending or denying approval of Eric Stephan Schmidt, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Eric Stephan Schmidt, 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: January 16, 2020


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

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