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

In the Matter of the Accusation Against: Kenneth J. Gjeltema, M.D. Physician's & Surgeon's Certificate No G 58053 Respondent.	Case No. 800-2015-012276

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 February 5, 2021.

IT IS SO ORDERED January 6, 2021.

MEDICAL BOARD OF CALIFORNIA

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

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
DAVID CARR
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 800-2015-012276
KENNETH J. GJELTEMA, M.D. **2930 2nd Ave. Ste 200** **Marina, CA 93933-6244** **Physician's and Surgeon's Certificate No. G 58053** Respondent.	**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this

matter by Xavier Becerra, Attorney General of the State of California, by David Carr and Hamsa Murthy, Deputy Attorneys General.

2. Respondent Kenneth J. Gjeltema, M.D. (Respondent) is represented in this proceeding by attorney Joseph S. Picchi, Esq., whose address is: 2300 Contra Costa Blvd, Suite 350 Pleasant Hill, CA 94523-2398. On or about August 4, 1986, the Board issued Physician's and Surgeon's Certificate No. G 58053 to Kenneth J. Gjeltema, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-012276, and will expire on March 31, 2022, unless renewed.

JURISDICTION

3. Accusation No. 800-2015-012276 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 March 5, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2015-012276 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. 800-2015-012276. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his 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 him; the right to present evidence and to testify on his 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 understands and agrees that the charges and allegations in Accusation No. 800-2015-012276, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. Respondent agrees that, at a hearing, Complainant could establish a *prima facie* case for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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

CONTINGENCY

11. 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 his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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.

12. 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.

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

DISCIPLINARY ORDER

I. PUBLIC REPRIMAND. IT IS HEREBY ORDERED that Respondent Kenneth J. Gjeltema, M.D., as holder of Physician's and Surgeon's Certificate No. G58053, shall be and hereby is publicly reprimanded pursuant to Business and Professions Code section 2227. This public reprimand is issued as a result of the following conduct by Respondent as set forth in Accusation No. 800-2015-012276:

> In 2015, Dr. Gjeltema failed to fully work-up, diagnose, and document a patient's complaint of chest pain, a departure from the standard of care.

Respondent further agrees to the following conditions as requirements for the issuance of this reprimand:

II. EDUCATION COURSES. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in 40 hours of education courses focusing on cardiac diagnosis and care, practice management, and record-keeping, and 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 course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

Courses 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 15 calendar days after successfully completing the courses, or not later than 30 calendar days after the effective date of the Decision, whichever is later.

III. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2015-012276 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict a license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Joseph S. Picchi, Esq. 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: _____ _____
KENNETH J. GJELTEMA, M.D.
Respondent

I have read and fully discussed with Respondent Kenneth J. Gjeltema, 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: _____ _____
JOSEPH S. PICCHI, ESQ.
Attorney for Respondent

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Joseph S. Picchi, Esq. 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: 10/19/20

KENNETH J. GJELTEMA, M.D.
Respondent

Kenneth Gjeltema MD

I have read and fully discussed with Respondent Kenneth J. Gjeltema, 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: October 19, 2020

JOSEPH S. PICCHI, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 10-19-20 Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

DAVID CARR
HAMSA M. MURTHY
Deputy Attorneys General
Attorneys for Complainant

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

DAVID CARR
HAMSA M. MURTHY
Deputy Attorneys General
Attorneys for Complainant

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Settlement Agreement Gjeltema (002).docx

Exhibit A

Accusation No. 800-2015-012276

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 15 2018
BY: ANALYST

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

In the Matter of the Accusation Against: **Kenneth J. Gjeltema, M.D.** 2930 2nd Ave. Ste 200 Marina, CA 93933-6244 **Physician's and Surgeon's Certificate No. G 58053,** Respondent.	Case No. 800-2015-012276 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board).

2. On or about August 4, 1986, the Medical Board issued Physician's and Surgeon's Certificate Number G 58053 to Kenneth J. Gjeltema, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2020, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

5. 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."

6. 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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CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligent Acts/Failure to Maintain Adequate and Accurate Records)

7. Respondent Kenneth J. Gjeltema, M.D. is subject to disciplinary action under sections 2234, 2234, subdivision (c), and 2266 of the Code in that Respondent engaged in unprofessional conduct and was repeatedly negligent, and failed to keep adequate and accurate records in his care and treatment of Patient.[1] The circumstances are as follows:

8. On or about January 8, 2015, Patient presented to his family physician, Respondent, during an office visit with a complaint of chest pains that persisted for up to 20 minutes. Respondent conducted a brief history and physical examination of Patient. Respondent diagnosed Patient's chest pain as non-cardiac in origin and indicated it was likely due to pleurisy [2] or gastrointestinal issues, and that further testing was unnecessary. Respondent recommended heat and Advil to treat Patient's symptoms. Respondent noted in Patient's chart that Patient was a 68-year-old male who presented with chest pain that felt like a pinched nerve lasting for 20 minutes and assessed "786.52 Chest wall pain...Heat and Advil." Respondent later admitted that "...my documentation was sparse in this case, I asked questions, I just didn't write them down."

9. Subsequently, Patient was seen by another physician the first week of February 2015 and was diagnosed with a cardiac irregularity and given nitroglycerine, as well as scheduled for an urgent stress test. Patient was advised to go immediately to the ER should his chest pain worsen. Patient was admitted to the ER on or about February 9, 2015, where Patient's heart activity was measured by an EKG test that signified he had an unstable angina[3]. He was transferred for an emergent cardiac catheterization, which found that Patient had a 90% stenosis of the left anterior descending coronary artery. Patient underwent angioplasty[4] and successful stent placement.

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[1] The patient is identified only as "Patient" to protect his right to privacy. The patient's identity will be revealed to Respondent in discovery.

[2] Pleurisy is an inflammation of the tissues that line the lungs and chest wall.

[3] Angina is a type of chest pain caused by reduced blood flow to the heart.

[4] Angioplasty is a procedure to open narrowed or blocked blood vessels that supply blood to the heart.

10. Respondent is guilty of unprofessional conduct and subject to disciplinary action under sections 2234, 2234, subdivision (c), and 2266 of the Code in that Respondent committed repeated negligent acts, and failed to adequately and accurately document Patient's medical record, including but not limited to the following:

A. Respondent failed to properly diagnose Patient's chest pain as cardiac in nature.

B. Further testing, including a CXR or EKG, should have been ordered by Respondent to rule out a differential diagnosis of Patient's chest pain as cardiac in nature.

C. Respondent did not refer Patient to an appropriate subspecialist or advise Patient to go to the ER should his pain endure or intensify.

D. Respondent did not properly document a thorough history, physical examination, or appropriate testing of Patient.

E. Respondent failed to document a further description of the stated diagnosis of chest wall pain, suggested follow up, or warning signs and symptoms for Patient to be aware of in the future.

DISCIPLINE CONSIDERATIONS

11. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about May 18, 1998, in a prior disciplinary action against Respondent before the Medical Board of California, in Case Number 12-94-44122, Respondent was issued a Public Letter of Reprimand for failing to keep accurate and complete medical records of a single patient in 1994. That Public Letter of Reprimand is now final and is incorporated by reference as if fully set forth.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 58053, issued to Kenneth J. Gjeltema, M.D.;

2. Revoking, suspending or denying approval of Kenneth J. Gjeltema, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Kenneth J. Gjeltema, 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: March 5, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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