

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

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

Sergio Roberto Riffel, M.D.

**Physician's and Surgeon's
Certificate No. A 41494**

Respondent

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Case No. 800-2016-021282

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, 2020.

IT IS SO ORDERED: January 6, 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 MEGAN R. O'CARROLL
Deputy Attorney General
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7 *Attorneys for Complainant*

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

14 In the Matter of the Accusation Against:

15 SERGIO ROBERTO RIFFEL, M.D.
16 P.O. Box 338
Brownsville, CA 95919-0338

17 Physician's and Surgeon's Certificate No.
18 No. A 41494

19 Respondent.

Case No. 800-2016-021282

OAH No. 2018030335

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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Megan R.
27 O'Carroll, Deputy Attorney General.

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2. Respondent Sergio Roberto Riffel, M.D. (Respondent) is represented in this proceeding by attorney Heather Cline Hoganson of Simas & Associates, whose address is: 3835 North Freeway Blvd., Suite 228, Sacramento, CA 95834.

3. On or about January 14, 1985, the Board issued Physician's and Surgeon's Certificate No. A 41494 to Sergio Roberto Riffel, M.D. (Respondent). The Physician's and Surgeon's Certificate No. was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-021282, and will expire on November 30, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-021282 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 February 2, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-021282 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-021282. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and 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. 800-2016-021282, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate No. A 41494.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

9 11. Respondent agrees that if he ever petitions for early termination or modification of
10 probation, or if an accusation and/or petition to revoke probation is filed against him, before the
11 Medical Board of California, all of the charges and allegations contained in Accusation No. 800-
12 2016-021282 shall be deemed true, correct and fully admitted by Respondent for purposes of that
13 proceeding or any other licensing proceeding involving Respondent in the State of California.

14 12. Respondent agrees that his Physician's and Surgeon's Certificate No. A 41494 is
15 subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in
16 the Disciplinary Order below.

17 RESERVATION

18 13. The admissions made by Respondent herein are only for the purposes of this
19 proceeding, or any other proceedings in which the Medical Board of California or other
20 professional licensing agency is involved, and shall not be admissible in any other criminal or
21 civil proceeding.

22 CONTINGENCY

23 14. This stipulation shall be subject to approval by the Medical Board of California.
24 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
25 Board of California may communicate directly with the Board regarding this stipulation and
26 settlement, without notice to or participation by Respondent or his counsel. By signing the
27 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
28 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
3 action between the parties, and the Board shall not be disqualified from further action by having
4 considered this matter.

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

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

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 41494 issued
13 to Respondent Sergio Roberto Riffel, M.D. is revoked. However, the revocation is stayed and
14 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

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

1 this Decision.

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

5 2. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
6 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
7 program approved in advance by the Board or its designee. Respondent shall successfully
8 complete the program not later than six (6) months after Respondent's initial enrollment unless
9 the Board or its designee agrees in writing to an extension of that time.

10 The program shall consist of a comprehensive assessment of Respondent's physical and
11 mental health and the six general domains of clinical competence as defined by the Accreditation
12 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
13 Respondent's current or intended area of practice. The program shall take into account data
14 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
15 Accusation(s), and any other information that the Board or its designee deems relevant. The
16 program shall require Respondent's on-site participation for a minimum of three (3) and no more
17 than five (5) days as determined by the program for the assessment and clinical education
18 evaluation. Respondent shall pay all expenses associated with the clinical competence
19 assessment program.

20 At the end of the evaluation, the program will submit a report to the Board or its designee
21 which unequivocally states whether the Respondent has demonstrated the ability to practice
22 safely and independently. Based on Respondent's performance on the clinical competence
23 assessment, the program will advise the Board or its designee of its recommendation(s) for the
24 scope and length of any additional educational or clinical training, evaluation or treatment for any
25 medical condition or psychological condition, or anything else affecting Respondent's practice of
26 medicine. Respondent shall comply with the program's recommendations.

27 Determination as to whether Respondent successfully completed the clinical competence
28 assessment program is solely within the program's jurisdiction.

1 If Respondent fails to enroll, participate in, or successfully complete the clinical
2 competence assessment program within the designated time period, Respondent shall receive a
3 notification from the Board or its designee to cease the practice of medicine within three (3)
4 calendar days after being so notified. The Respondent shall not resume the practice of medicine
5 until enrollment or participation in the outstanding portions of the clinical competence assessment
6 program have been completed. If the Respondent did not successfully complete the clinical
7 competence assessment program, the Respondent shall not resume the practice of medicine until a
8 final decision has been rendered on the accusation and/or a petition to revoke probation. The
9 cessation of practice shall not apply to the reduction of the probationary time period.

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

19 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
20 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
21 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
22 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
23 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
24 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
25 signed statement for approval by the Board or its designee.

26 Within 60 calendar days of the effective date of this Decision, and continuing throughout
27 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
28 make all records available for immediate inspection and copying on the premises by the monitor.

1 at all times during business hours and shall retain the records for the entire term of probation.

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

7 The monitor(s) shall submit a quarterly written report to the Board or its designee which
8 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
9 are within the standards of practice of practice, and whether Respondent is practicing medicine
10 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
11 that the monitor submits the quarterly written reports to the Board or its designee within 10
12 calendar days after the end of the preceding quarter.

13 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
14 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
15 name and qualifications of a replacement monitor who will be assuming that responsibility within
16 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
17 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
18 notification from the Board or its designee to cease the practice of medicine within three (3)
19 calendar days after being so notified. Respondent shall cease the practice of medicine until a
20 replacement monitor is approved and assumes monitoring responsibility.

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

26 4. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
27 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
28 where: 1) Respondent merely shares office space with another physician but is not affiliated for

1 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
2 location.

3 If Respondent fails to establish a practice with another physician or secure employment in
4 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
5 Respondent shall receive a notification from the Board or its designee to cease the practice of
6 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
7 practice until an appropriate practice setting is established.

8 If, during the course of the probation, the Respondent's practice setting changes and the
9 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
10 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
11 If Respondent fails to establish a practice with another physician or secure employment in an
12 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
13 shall receive a notification from the Board or its designee to cease the practice of medicine within
14 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
15 appropriate practice setting is established.

16 5. EDUCATION COURSE. Within 60 calendar days of the effective date of this
17 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
18 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
19 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
20 improving sensitivity and respectful communications of issues pertaining to LGBT patients, and
21 shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's
22 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
23 renewal of licensure. Following the completion of each course, the Board or its designee may
24 administer an examination to test Respondent's knowledge of the course. Respondent shall
25 provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this
26 condition.

27 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
28 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

1 Chief Executive Officer at every hospital where privileges or membership are extended to
2 Respondent, at any other facility where Respondent engages in the practice of medicine,
3 including all physician and locum tenens registries or other similar agencies, and to the Chief
4 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
5 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
6 calendar days.

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

8 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
9 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
10 advanced practice nurses.

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

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

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

19 10. GENERAL PROBATION REQUIREMENTS.

20 Compliance with Probation Unit

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

22 Address Changes

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

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1 Place of Practice

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

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

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

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

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

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

1 on probation with the medical licensing authority of that state or jurisdiction shall not be
2 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
3 period of non-practice.

4 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
5 months, Respondent shall successfully complete the Federation of State Medical Board's Special
6 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
7 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
8 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

11 Periods of non-practice for a Respondent residing outside of California will relieve
12 Respondent of the responsibility to comply with the probationary terms and conditions with the
13 exception of this condition and the following terms and conditions of probation: Obey All Laws;
14 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
15 Controlled Substances; and Biological Fluid Testing.

16 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
17 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
18 completion of probation. Upon successful completion of probation, Respondent's certificate shall
19 be fully restored.

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

27 15. LICENSE SURRENDER. Following the effective date of this Decision, if
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

1 the terms and conditions of probation, Respondent may request to surrender his or her license.
2 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
3 determining whether or not to grant the request, or to take any other action deemed appropriate
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
5 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
6 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
7 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
8 application shall be treated as a petition for reinstatement of a revoked certificate.

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

14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
16 discussed it with my attorney, Heather Hoganson. I understand the stipulation and the effect it
17 will have on my Physician's and Surgeon's Certificate No. A 41494. I enter into this Stipulated
18 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
19 bound by the Decision and Order of the Medical Board of California.

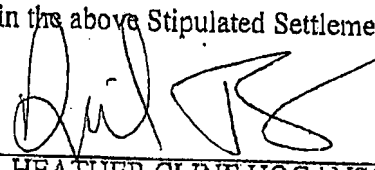
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21 DATED: 6-27-2019

Sergio R. Riffel
22 SERGIO R. RIFFEL
23 Respondent
24
25
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1 I have read and fully discussed with Respondent Sergio Roberto Riffel, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

3 I approve its form and content.

4 DATED: 9/18/19

 FOR:
HEATHER CLINE HOGANSON
Attorney for Respondent

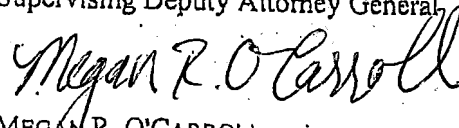
7 ENDORSEMENT

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

10 Dated: 11-12-19

11 Respectfully submitted,

12 XAVIER BECERRA
13 Attorney General of California
14 STEVEN D. MUNI
15 Supervising Deputy Attorney General


16 MEGAN R. O'CARROLL
17 Deputy Attorney General
18 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-021282

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
MEGAN R. O'CARROLL
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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. 800-2016-021282

SERGIO ROBERTO RIFFEL, M.D.
P.O. Box 338
Brownsville, CA 95919-0338

ACCUSATION

Physician's and Surgeon's Certificate No. A 41494,
Respondent.

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, Department of Consumer Affairs (Board).

2. On or about January 14, 1985, the Medical Board issued Physician's and Surgeon's Certificate No. A 41494 to Sergio Roberto Riffel, M.D. (Respondent). The Physician's and Surgeon's Certificate No. A 41494 was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2018, unless renewed.

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 (Code) unless otherwise indicated.

4. 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.

“(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.”

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:

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

3 “(b) Gross negligence.

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

7 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a
11 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
12 applicable standard of care, each departure constitutes a separate and distinct breach of the
13 standard of care.

14 “(d) Incompetence.

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

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

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

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

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FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

6. Respondent Sergio Roberto Riffel, M.D. is subject to disciplinary action under section 2234, subdivision (c), of the Code in that he was repeatedly negligent in the care and treatment of two patients. The circumstances are as follows:

Patient 1

7. Respondent is a primary care provider at Ampla Health in Oroville, California. On or about January 31, 2012, Respondent saw Patient 1, who was then a 38-year old woman. At the January 31, 2012 appointment, Respondent noted that Patient 1's TSH level was checked on August 25, 2011, at which time it was 14.5, and that Patient 1 had been on levothyroxine 0.2 mg per day. His diagnosis for Patient 1 was hypothyroidism, back pain, and anxiety. He ordered laboratory tests including TSH, with reflex, free T4, and commented that Patient 1's dosage of levothyroxine is "kind of high. We will adjust the dosage according to the lab results."

8. At the next appointment on or about February 9, 2012, Respondent noted in the progress note that the vitamin B12 level was 179, with TSH elevated to 58, and the free T4 at 0.5. He diagnosed Patient 1 with fatigue, secondary to hypothyroidism. His plan was to prescribe levothyroxine 50 mg, one half daily.

9. At the next appointment on or about March 6, 2012, Respondent noted "we are giving her a prescription of 100 mg take a half and she has been explained that would be equivalent to the 50 mg she was taking. She is advised not to take more or less than what I am telling her because that could be dangerous for the heart. She could develop coronary artery disease. She is going to return to clinic in 6 weeks at which time we'll plan to repeat the TSH."

10. At the next appointment on or about April 16, 2012, no change in medication was made. There is no recording of the TSH, or of her current dose of levothyroxine. A blood test on April 16, 2012 showed Patient 1's vitamin B12 level to be 176 and TSH to be 30, with free T4 at 0.61.

11. There is a progress note by Respondent on or about May 4, 2012, diagnosing Patient 1 with hypothyroidism, requiring higher doses of medication, osteoarthritis, and obesity.

Respondent advised Patient 1 to increase her thyroid medication to 100 mg daily. Respondent recorded a plan to repeat the TSH test in six weeks. He directed Patient 1 to return in six weeks. On or about August 21, 2015, Patient 1 had an appointment with Respondent.

12. Despite Patient 1's vitamin B12 level having been measured at 176 picogram per milliliter on two separate occasions, Respondent did not order a CBC to look for evidence of macrocytosis. Vitamin B12 levels of this range, in combination with the other findings in Patient 1's laboratory results, may contribute to the development of future peripheral neuropathy.

Patient 2

13. On or about June 8, 2016, Patient 2 presented to Respondent for follow up after having been diagnosed by a different provider the previous week with a pulled muscle. Patient 2 had a history of gastric bypass surgery in 2006, which she reported to Respondent and which Respondent recorded in the medical record. Respondent also charted that Patient 2 had a history of what she believed to be a pulled muscle to her right rib for one week. Respondent documented a comprehensive physical examination, including a completely normal abdominal examination. He assessed Patient 2 as having vitamin B12 deficiency, anxiety disorder, and muscle strain. He prescribed methocarbamol 500 mg, 1-2 tablets up to twice daily, and naproxen 375 mg, twice daily as needed.

14. Patient 2 attempted to explain to Respondent that her gastric bypass surgeon had instructed her not to take NSAID medications because it is contraindicated after gastric bypass surgery, but she reported that Respondent would not listen and instead would talk over her.

15. Respondent was repeatedly negligent in his care and treatment of Patient 1 and Patient 2 for his acts and omissions including, but not limited to, the following:

(a) Failing to prescribe the full dose of levothyroxine, i.e. 100 mg per day with follow up TSH testing in 4-6 weeks, to Patient 1 after diagnosing hypothyroidism in a patient who is relatively young and has no history of coronary artery disease, particularly when the hypothyroidism may be contributing to anxiety or depression; and

(b) Failing to adequately treat Patient 1's probable vitamin B-12 deficiency.

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1 (c) Prescribing NSAID therapy to Patient 2, who was a patient with a history of gastric
2 bypass surgery, despite the risks of gastrointestinal complications and despite the availability of
3 alternate analgesics.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (General Unprofessional Conduct)

6 16. On or about August 21, 2015, Patient 3 had an appointment with Respondent for
7 ongoing treatment of medical issues and refills of medications. At the time of the appointment,
8 Patient 3 was fifty-seven years of age, and had a significant mental health history, as well as a
9 history of cardiomyopathy, hypertension, hypothyroidism, and type two diabetes. During the
10 appointment Respondent began to discuss his political and religious views. Respondent stated
11 that homosexuality is morally wrong and that then-president Obama is homosexual, which is a
12 shame. He further stated that he believed President Obama influenced various individual rights
13 laws, and that in other countries they do not protect homosexual people, but instead kill them, and
14 that he hoped President Obama's laws would be repealed. Respondent also told Patient 3 that he
15 read several articles about patients with mental health issues who stopped taking psychiatric
16 medications and instead went to church and were saved from the evil inside them. Patient 3 told
17 Respondent that her son is gay at which point Respondent agreed that he probably should not tell
18 her his views, and he laughed.

19 17. A behavioral health assistant was present with Patient 3 at this appointment and
20 attempted to stop Respondent from making further inappropriate remarks and bring the discussion
21 back to Patient 3's medical treatment. The behavioral health assistant told Respondent that
22 Patient 3 is doing well on her mental health medication regimen. Patient 3 and the behavioral
23 health assistant filed a complaint with Ampla Health immediately after the appointment
24 describing what Respondent said and that it caused Patient 3 to be upset and angry. Ampla Health
25 had received numerous complaints from many patients between 2013 and 2016 complaining that
26 Respondent had made racist, homophobic and demeaning statements to patients during medical
27 appointments with him. On or about February 4, 2016, Ampla Health issued Respondent a formal

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1 warning letter about his inappropriate statements regarding personal, religious, and political views
2 when interacting with patients.

3 18. Respondent's conduct in his care and treatment of Patient 3 constitutes general
4 unprofessional conduct in that he was demeaning and offensive to a patient seeking medical care
5 from him.

6 DISCIPLINARY CONSIDERATIONS

7 19. To determine the degree of discipline, if any, to be imposed on Respondent,
8 Complainant alleges the following prior disciplinary actions were taken against Respondent's
9 license:

10 Effective June 5, 2009, in Board Case Number 16-2008-194598, Respondent's license was
11 revoked, but the revocation was stayed and the license placed on two (2) years of probation with
12 various terms and conditions, including the requirement that he complete the Physician

13 Assessment and Clinical Education Program (PACE) offered at the University of California-San
14 Diego School of Medicine. The California Board discipline was based on out-of-state discipline
15 imposed by the State of Maine Board of Licensure in Medicine. Respondent was found to have
16 been in violation of Business and Professions Code sections 141(a) and 2305 (out-of-state license
17 discipline against a physician licensed to practice medicine in California for any action(s)
18 substantially related to the practice of medicine). That decision is now final and is incorporated
19 by reference as if fully set forth

20 Effective November 18, 2010, in Board Case Number D1-2008-194598, Respondent's
21 probationary license was revoked, because he failed the PACE evaluation in violation of the terms
22 of his probation. The revocation was stayed and his license remained suspended until Respondent
23 successfully completed the PACE program. On or about April 11, 2011, Respondent passed
24 PACE with major recommendations and subsequently was admitted to five (5) years of probation
25 with various terms and conditions. That decision is now final and is incorporated by reference as
26 if fully set forth.

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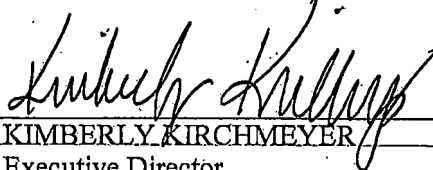
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PRAYER

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 No. A 41494, issued to Sergio Roberto Riffel, M.D.;
2. Revoking, suspending or denying approval of Sergio Roberto Riffel, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Sergio Roberto Riffel, 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: February 6, 2018


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

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