

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

In the Matter of the Accusation)
Against:)
)
)
ERIC MICHAEL JACOBSON M.D.)
)
Physician's and Surgeon's)
Certificate No. G36315)
)
Respondent)
_____)

File No. 8002014009435

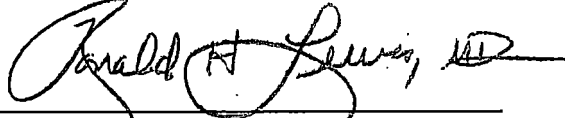
DECISION

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 May 9, 2018.

IT IS SO ORDERED April 9, 2018.

MEDICAL BOARD OF CALIFORNIA

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

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 DEMOND L. PHILSON
Deputy Attorney General
4 State Bar No. 220220
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
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Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

12 **ERIC MICHAEL JACOBSON, M.D.**
13 **576 Hartnell St., Ste. 300**
Monterey, CA 93940

14 **Physician's and Surgeon's Certificate**
15 **No. G 36315**

16 Respondent.

Case No. 800-2014-009435

OAH No. 2017060062

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Demond L. Philson,
24 Deputy Attorney General.

25 2. Respondent Eric Michael Jacobson, M.D. (Respondent) is represented in this
26 proceeding by attorney Barry C. Marsh, whose address is: 12901 Saratoga Avenue, Saratoga, CA
27 95070-9998.

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1 3. On or about April 24, 1978, the Board issued Physician's and Surgeon's Certificate
2 No. G 36315 to Eric Michael Jacobson, M.D. (Respondent). The Physician's and Surgeon's
3 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
4 No. 800-2014-009435, and will expire on April 30, 2018, unless renewed.

5 JURISDICTION

6 4. Accusation No. 800-2014-009435 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on March 16, 2017. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 5. A copy of Accusation No. 800-2014-009435 is attached as exhibit A and incorporated
11 herein by reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2014-009435. Respondent has also carefully read,
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

25 CULPABILITY

26 9. Respondent understands that the charges and allegations in Accusation No. 800-2014-
27 009435, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
28 Surgeon's Certificate No. G 36315.

1 10. For the purpose of resolving the Accusation without the expense and uncertainty of
2 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
3 basis for the charges in the Accusation and that those charges constitute cause for discipline.
4 Respondent hereby gives up his right to contest that cause for discipline exists based on those
5 charges.

6 11. Respondent agrees that his Physician's and Surgeon's Certificate No. G 36315 is
7 subject to discipline and he agrees to be bound by the Board's terms as set forth in the
8 Disciplinary Order below. Respondent further understands and acknowledges that failure to
9 complete the Board's terms as set forth below may lead to additional charges alleging
10 unprofessional conduct and the imposition of additional discipline.

11 CONTINGENCY

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

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

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

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 36315 issued
3 to Respondent Eric Michael Jacobson, M.D. shall be and is hereby publicly reprimanded pursuant
4 to California Business and Professions Code, section 2227, subdivision (a)(4) as follows:

5 "You failed to refer a patient's electroconvulsive therapy to the electroconvulsive therapy
6 peer review committee for discussion and omitted any discussion in the record of the prolonged
7 course of electroconvulsive therapy. These actions are in violation of California business and
8 professions code section 2234(c) and section 2266 of the Medical Practice Act."

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

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

27 A medical record keeping course taken after the acts that gave rise to the charges in the
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.


4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than 15 calendar days after successfully completing the course, or not later than
6 15 calendar days after the effective date of the Decision, whichever is later.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
9 discussed it with my attorney, Barry C. Marsh. I understand the stipulation and the effect it will
10 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Medical Board of California.

13
14 DATED: 1/22/18 
15 ERIC MICHAEL JACOBSON, M.D.
16 Respondent

17 I have read and fully discussed with Respondent Eric Michael Jacobson, M.D. the terms
18 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
19 Order. I approve its form and content.

20 DATED: 1/22/2018 
21 BARRY C. MARSH
22 Attorney for Respondent

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ENDORSEMENT

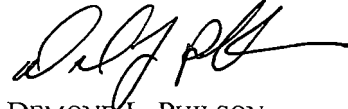
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

4/22/18

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General



DEMOND L. PHILSON
Deputy Attorney General
Attorneys for Complainant

FR2016302211
Jacobson Stipulated Settlement and Disciplinary Order.docx

Exhibit A

Accusation No. 800-2014-009435

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 DEMOND L. PHILSON
Deputy Attorney General
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Facsimile: (916) 327-2247

7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 16 20 17
BY Wsu ANALYST

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

13 In the Matter of the Accusation Against:	Case No. 800-2014-009435
14 Eric Michael Jacobson, M.D.	ACCUSATION
15 Behavioral Health Services	
16 576 Hartnell St., Ste. 300	
17 Monterey, CA 93940	
18 Physician's and Surgeon's Certificate	
19 No. G 36315,	
20 Respondent.	

20 Complainant alleges:

21 **PARTIES**

- 22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).
- 25 2. On or about April 24, 1978, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 36315 to Eric Michael Jacobson, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on April 30, 2018, unless renewed.

JURISDICTION

1
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 2227 of the Code states:

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

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

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

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

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

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

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

25 5. Section 2234 of the Code, states:

26 “The board shall take action against any licensee who is charged with unprofessional
27 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
28 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.”

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

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FIRST CAUSE FOR DISCIPLINE
[Bus. & Prof. Code §2234(c)]
(Unprofessional Conduct/Repeated Negligent Acts)

7. Respondent Eric Michael Jacobson, M.D., is subject to disciplinary action under section 2234(c) of the Code in that he committed acts of repeated negligence in the care and treatment of patient D.S. The circumstances are as follows:

8. On or about October 22, 2014, the California Department of Public Health (CDPH) requested an investigation into the quality of psychiatric care and treatment Respondent provided to patient D.S. at Community Hospital of the Monterey Peninsula (CHOMP). The request stated that on or around August 15, 2014, the CDPH followed-up on complaints from patient D.S. where she alleged she was misdiagnosed and inappropriately placed on involuntary hold and received electroconvulsive therapy (ECT) without her consent. Patient D.S. also alleged that she suffered brain damage as a result of the treatment she received from Respondent at CHOMP.

TREATMENT PROVIDED TO PATIENT D.S. AT SHARP MESA VISTA HOSPITAL

9. On or about August 24, 2015, the Board received certified medical records of patient D.S. from CHOMP. On or about January 5, 2016, the Board received certified medical records of patient D.S. from Sharp Mesa Vista Hospital. An expert reviewer from the Board reviewed Respondent's treatment of patient D.S. and found that his actions constituted departures from the standard of care based upon the quality of psychiatric care and treatment he provided.

10. Patient D.S. was treated as an outpatient by psychiatrist E.R., MD in San Diego for bipolar disorder. She had been prescribed many psychotropic medications yet became increasingly depressed. As a result, she was referred by Dr. E.R. for outpatient ECT at Sharp Mesa Vista in San Diego. Patient D.S., up to one month prior to the commencement of this series of ECT, had been using cannabis on a daily basis. She had also used cocaine, ecstasy, LSD, alcohol and mushrooms. She was prescribed medication including Adderall (amphetamines) 60 mg daily and Xanax 2 mg daily in addition to lamotrigine, bupropion, zolpidem, and thioridazine. The initial series of ECT was administered voluntarily as an outpatient, but she was considered admitted to Sharp Mesa Vista Hospital for each episode of treatment, and discharged home the

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1 same day. She received 19 sessions of outpatient ECT at Sharp Mesa Vista Hospital from March
2 28 through June 15, 2012. These treatments were bilateral.

3 11. After 19 outpatient ECT treatments at Sharp, patient D.S. became more depressed and
4 had short term memory difficulties. Patient D.S. considered discontinuing treatment, but instead
5 requested voluntary inpatient admission to Sharp Mesa Vista Hospital. She remained inpatient
6 from July 10 through July 21, 2012, and received 9 additional ECT treatments for a total of 28
7 ECT sessions. Drs. P.B., D.B. and R.F. administered ECT initially bilaterally. After patient
8 D.S.'s 25th treatment, Dr. R.F. noted continued confusion on the part of the patient and changed
9 any future treatments to unilateral. Nurse's notes indicated patient D.S. continued to use cannabis
10 prior to her inpatient hospitalization and during outpatient ECT.

11 12. Patient D.S. was discharged on July 21, 2012, and moved near Monterey, California.
12 She discussed with her psychiatrists and social services staff at Sharp Mesa Vista Hospital her
13 intent to continue ECT treatment in Monterey. Respondent, a psychiatrist with the medical group
14 at CHOMP, reviewed the earlier treatments and recommendations with Dr. E.R.

15 TREATMENT PROVIDED TO PATIENT D.S. AT CHOMP

16 13. On or about August 10, 2012, Patient D.S. was admitted voluntarily for outpatient
17 ECT treatment at CHOMP. On that date, she received her first outpatient continuation ECT
18 unilaterally from Dr. M.L. Dr. M.L. attempted to taper down the frequency of ECT, moving to
19 continuation every week, then maintenance every other week, then monthly, but this did not work
20 out. Dr. M.L., observing her increasing depression, decided to use the bilateral mode after ECT
21 #6 at CHOMP (#34 for the year). Several ECT's were administered by Respondent in October
22 during the vacation of Dr. M.L. At that time, because patient D.S. seemed profoundly more
23 depressed, the ECT increased in frequency in October and was altered to bilateral. She received a
24 total of 30 outpatient ECT sessions at CHOMP. Prior to the first ECT and every month thereafter,
25 she was evaluated by Dr. M.L., and then 24 hours later by a "second opinion" psychiatrist who
26 evaluated her capacity to give informed consent. The second opinion psychiatrist determined the
27 patient's capacity by asking a series of questions to the patient and then observed the patient
28 approve treatment by signing a consent form for ECT. In all those monthly sessions where she

1 signed the informed consent form, either her mother or father were present. Respondent and Dr.
2 M.L. noted patient D.S. had some memory problems. Memory complaints had occurred when
3 patient D.S. was receiving bilateral ECT at Sharp Mesa Vista Hospital prior to ECT treatment at
4 CHOMP.

5 14. There was no formal assessment of cognitive complaints by either Respondent or Dr.
6 M.L. They did not perform the Folstein Mini-Mental Status exam, draw a clock test or the
7 Montreal Cognitive Assessment (MOCA) or similar instrument. Cognitive testing was non-
8 uniform, perfunctory and incomplete. Respondent's failure to systematically, uniformly and
9 thoroughly test for the validity of patient D.S.' reports of memory problems constitutes a
10 departure from the standard of care.

11 15. Respondent did not document the implications of exceeding 30 ECT treatments.
12 Patient D.S. received an unusually large number of treatments, a total of 58, in approximately nine
13 months. Respondent's failure to refer patient D.S.'s ECT treatment to the ECT peer review
14 committee for discussion is a departure from the standard of care. Further, Respondent omitted
15 any discussion in the records of the extra-ordinary, prolonged course of ECT, and the usefulness
16 of ECT as a mode of therapy. This is also a departure from the standard of care.

17 **SECOND CAUSE FOR DISCIPLINE**

18 [Bus. & Prof. Code §2266]

19 **(Unprofessional Conduct/Negligent Patient Record Keeping)**

20 16. Respondent Eric Michael Jacobson, M.D., is subject to disciplinary action under
21 section 2266 of the Code in that he failed to maintain adequate and accurate medical records in
22 the care and treatment of patient D.S. The circumstances are as follows:

23 17. Paragraphs 7 through 15 above, are repeated here as if fully set forth.

24 18. Respondent's inadequate and inaccurate medical record keeping in his care and
25 treatment of patient D.S., as described above, constitutes a violation of section 2266 of the Code
26 and thereby provides cause for discipline to Respondent's license.

27 **PRAYER**

28 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 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 36315, issued to
2 Respondent Eric Michael Jacobson, M.D.;
- 3 2. Revoking, suspending or denying approval of Respondent Eric Michael Jacobson,
4 M.D.'s authority to supervise physician assistants and advanced practice nurses, pursuant to
5 section 3527 of the Code;
- 6 3. Ordering Respondent Eric Michael Jacobson, M.D., if placed on probation, to pay the
7 Board the costs of probation monitoring; and
- 8 4. Taking such other and further action as deemed necessary and proper.

9
10 DATED: March 16, 2017



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