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

In the Matter of the Accusation Against:	)	
DAVID PAUL DEUTSCH, M.D.	)	**Case No. 800-2015-018559**
Physician's and Surgeon's Certificate No. G83289	)	
Respondent	)	

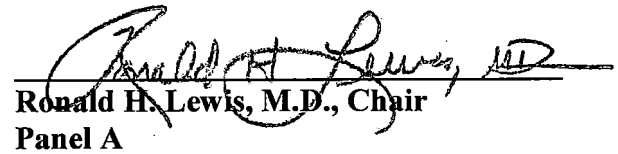
DECISION

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 January 3, 2020.

IT IS SO ORDERED December 4, 2019.

MEDICAL BOARD OF CALIFORNIA



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

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
VLADIMIR SHALKEVICH
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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: DAVID PAUL DEUTSCH, M.D. East Tower, PH 9100 Wilshire Boulevard Beverly Hills, California 90212 Physician's and Surgeon's Certificate G 83289, Respondent.	Case No. 800-2015-018559 OAH No. 2019010303 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Vladimir Shalkevich, Deputy Attorney General.

2. Respondent David Paul Deutsch, M.D. (Respondent) is represented in this proceeding by attorney Peter Osinoff, of Bonne, Bridges, Muller, O'Keefe & Nichols, 355 South Grand Avenue, Suite 1750, Los Angeles, California 90071.

3. On August 1, 1996, the Board issued Physician's and Surgeon's Certificate No. G 83289 to David Paul Deutsch, M.D. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-018559, and will expire on September 30, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-018559 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 August 8, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-018559 is attached as Exhibit A and is 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. 800-2015-018559. 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.

CULPABILITY

9. Respondent admits the truth of the charges and allegations contained in Paragraph 8, subparagraphs A through F and Paragraph 9, subparagraphs B 2 through B 3, of Accusation No. 800-2015-018559.

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 probationary terms 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 formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. G 83289 issued to Respondent David Paul Deutsch, M.D. is herby publicly reprimanded pursuant to Business and Professions Code section 2227. This public reprimand is issued in connection with

Respondent's actions as alleged in the allegations and charges set forth in Paragraph 8, subparagraphs A through F and Paragraph 9, subparagraphs B 2 through B 3, of Accusation No. 800-2015-018559.

IT IS FURTHER ORDERED THAT Respondent shall comply with the following:

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

A professionalism program 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 program would have been approved by the Board or its designee had the program 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 12 hours. The educational program(s) or course(s) shall be aimed at correcting those areas of deficient practice or knowledge contained in the Accusation No. 800-2015-018559, and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the

the Accusation No. 800-2015-018559, and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 37 hours of CME of which 12 hours were in satisfaction of this condition.

3. VIOLATION OF THIS AGREEMENT. Failure to comply with any term or condition of this Agreement is unprofessional conduct in violation of Business and Professions Code section 2234. If Respondent violates this agreement in any respect, the Board may file an Accusation and, after a hearing, discipline Respondent's license for unprofessional conduct in violation of section 2234.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter Osinoff. 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: 7/9/19

DAVID PAUL DEUTSCH, M.D.
Respondent

I have read and fully discussed with Respondent DAVID PAUL DEUTSCH, 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: 7/10/19

PETER OSINOFF
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: 7/10/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

VLADIMIR SHALKEVICH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-018559

XAVIER BECERRA
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Aug 8 2018
BY _____ ANALYST

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

In the Matter of the Accusation Against: **David Paul Deutsch, M.D.** **9100 Wilshire Blvd., East Tower PH** **Beverly Hills, CA 90212** **Physician's and Surgeon's Certificate No. G 83289,** Respondent.	Case No. 800-2015-018559 **ACCUSATION**

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 August 1, 1996, the Medical Board issued Physician's and Surgeon's Certificate Number G 83289 to David Paul Deutsch, 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 September 30, 2019, 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 provides:

"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:

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

"(b) Gross negligence.

"(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.

"(d) Incompetence.

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

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

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

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

6. Section 2264 of the Code states:

"The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct."

STANDARD OF CARE

7. Regarding hair restoration procedures, there are several essential standards. First, the physician and surgeon must advise the patient on the risks and benefits of the hair restoration procedure. Second, the physician and surgeon must consider and address the patient's general medical and psychological condition, including age, sex, physical condition and any genetic history of hair loss. Third, the physician and surgeon must identify, advise, and manage patients whose hair loss is not androgenetic in etiology.[1] Fourth, the physician and surgeon must prepare an integrated medical and surgical treatment plan, including hairlines and crowns, for patients between the ages of 16 and 65 who have Norwood-Hamilton Stages II through VII and Ludwig Stages I, II, and III.[2]

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[1] Androgenetic alopecia is a common form of hair loss in both men and women. In men, this condition is also known as male-pattern baldness. Hair is lost in a well-defined pattern, beginning above both temples. Over time, the hairline recedes to form a characteristic "M" shape.

[2] The Norwood Hamilton Scale measures the extent of male pattern baldness.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent David Paul Deutsch, M.D. is subject to disciplinary action under Business and Professions Code section 2234, subdivision (b), in that he committed gross negligence during the care, treatment and management of one patient,[3] as follows:

A. On or about August 19, 2015, Patient 1, then 41 years old, underwent a hair transplant procedure at the Bosley Medical Group's Beverly Hills office.

B. Patient 1 was aware of the Bosley Medical Group due to the number of advertisements and promotions he had seen over the years.

C. On or about August 10, 2015, Patient 1 contacted Respondent about having hair restoration surgery. Patient 1 scheduled an appointment for August 15, 2015, at Respondent's Fresno location.[4]

D. Patient 1 then scheduled hair restoration surgery with Respondent for August 19, 2015. Using a credit card, Patient 1 prepaid Respondent $1,000 to reserve a surgical suite for August 19, 2015.

E. On the date of the scheduled surgery:

1) 8:00 a.m.: Patient 1 arrived at the Bosley's Beverly Hills office.

2) 8:04 a.m.: Patient 1 was seen by a sales consultant who was not a licensed physician and surgeon or other licensed healthcare provider. The sales consultant discussed Patient 1's medical history which was significant for asthma and depression. Patient 1 reported that he took Prozac and aspirin daily. Patient 1 further reported that he rarely used Albuterol for his asthma. The sales consultant then discussed the extent of the patient's hair loss and the benefits of hair transplants with Patient 1. The sales consultant then had Patient 1 sign a document

[3] In order to protect the privacy rights of the patient, the patient is referred to as Patient 1. The true name of the Patient is known to Respondent and will be provided upon his timely request for discovery.

[4] Patient 1 kept the appointment; however, neither Respondent nor anyone from his office attended.

entitled: "Bosley-The World's Most Experienced Hair Restoration Expert- Important Information from Bosley-Please read care fully[.]"

3) Both Patient 1 and the sales consultant signed the document.

4) Paragraph 7 of the document reads, "All aspects of the medical and surgical care you receive at Bosley are directed by and controlled by your Bosley Physician who has board-certification or equivalent credentials in a surgical specialty such as general, plastic, dermatologic or ear, nose, & throat surgery."

5) Respondent is an independent contractor for the Bosley Medical Group.[5]

6) Respondent was not board certified at the time of the scheduled surgery.[6]

7) In California, a physician and surgeon cannot claim or advertise board-certification in hair restoration surgery.

8) After the sales consultant and Patient 1 executed the "important information" document, Respondent entered the room. This was the first time that Patient 1 met Respondent or any licensed medical professional regarding his anticipated hair restoration surgery.

9) Respondent looked at Patient 1 and determined that Patient 1 had Androgenetic Alopecia Type 5 and found that Patient 1 has a "good supply of donor hair." Respondent recommended "restoring the hairline" and "add density." He also recommended the possibility that two or more procedures may be desired. Respondent further discussed the use of Propecia.

10) Respondent recommended "1800-2800 grafts- max 2800[.]"

[5] All physicians at the Bosley Medical Group are independent contractors.

[6] Respondent, at one time, was board certified in thoracic and general surgery. During his meeting with representatives of the Medical Board of California, Respondent stated that he was board certified by the American Board of Hair Restoration Surgeons.

11) Respondent's preoperative report contains the following notations: 1) not on medications currently[7] and 2) patient is not driving.

12) 8:18 AM- Patient 1 is brought into the procedure room.

13) 8:23 AM – Patient 1 executed a medical consent form.[8]

14) 8:24 AM- the medical consent was witnessed by a Bosley Medical Group employee.

15) 8:42 AM- Respondent initialed orders to give 1) Valium 2.5 mg orally, 2) Keflex or Erythromycin orally, 3) Lidocaine local, 4) Marcaine locally and to dispense Vicodin, ibuprofen, Ambien, & Medrol.

16) 8:43 AM- Photos of Patient 1 completed.

17) 9:08 AM- Patient 1 executed an invoice in the operating room for a total financial obligation of $13,550. Patient 1's invoice included another $400 for an additional 100 grafts, 100 grafts over the maximum number that Respondent recommended. Patient 1 was now obligated to pay for 2,900 grafts even though Respondent recommended a maximum of 2,800 grafts.

18) 9:10 AM Financial Collection completed-- Patient 1 paid a Bosley Medical Group employee $4,000, in cash, and executed a financial obligation contract of $8,550 through Healthcare Finance Direct, LLC.

19) 9:20 AM- Keflex 500 mg, prednisone 15 mg, and 2.5 mg valium given orally.

20) 9:50 AM- Local anesthesia completed- lidocaine and Marcaine were given.

21) 10:10 AM-Donor tissue (strip) removed and sutured.

22) 10:10-10:35 AM-Recipient Site incisions started & completed.[9]

[7] Patient 1 told the sales consultant that he, Patient 1, was taking Prozac and aspirin, daily.
[8] The medical consent was executed 10 minutes after Patient 1 met Respondent.
[9] 2300 surgical incisions were performed in 25 minutes.

23) 11:00 AM- Graft placement by medical technicians was begun.

24) 1:30 PM- Local Anesthesia (Marcaine) is applied to recipient site.

25) 1:35-1:53 PM- Extra recipient site incisions started and completed.[10]

26) 2:30 PM-Local anesthesia (Marcaine) applied to donor site.

27) 4:26 PM- Graft placement is completed by medical technicians.

28) 4:40 PM- Keflex 250 mg and prednisone 15 mg given orally.

29) 4:45 PM- Patient released from procedure room.

30) Respondent's operative report contains the following entries: hair transplant to front, top, back; patient satisfied; and, donor tissue removed. Report contained the additional information that "Patient tolerated the procedure well without distress. Patient verbalized his understanding of all meds and post-op instruction. Stable for discharge per [Respondent]."

F. Post-Operative Time Line:

1) August 19, 2015, at 9:00 PM- Respondent documented that he called patient and patient reported "no problems." Patient 1, however, reported that he was experiencing pain and had only received 3 or 4 pain pills.[11]

2) August 21, 2015, Patient 1 did not present for "hair wash."

3) August 21, 2015-Patient called Respondent, complaining of pain and swelling.

4) September 22, 2015- A Bosley Medical Group employee telephoned Patient 1. Patient 1 did not answer. A message was left but Patient 1 did not return call.

5) September 27, 2015—Patient 1 emailed Respondent, complaining of pain, numbness, and no growth.

6) November 12, 2015-Respondent advised by his attorney that Patient 1

[10] 640 surgical excisions were performed in 18 minutes.

[11] Respondent's records indicate that Patient 1 received 12 Vicodin tablets and three Ambien tablets.

failed to make timely payments to the financing company.

7) November 12, 2015-Respondent's attorney was contacted by Patient 1 with complaints of pain. Patient 1 advised to see Respondent.

8) December 9 through 17, 2015-several failed attempts by Patient 1 to see Respondent. On December 14, Respondent left a voicemail message for Patient 1. On December 15, 2015, Respondent spoke to Patient 1 by telephone. Respondent reassured Patient 1 that his issues would resolve.

G. The following acts and omissions, considered individually and collectively, constitute extreme departures from the standard of care.

1) Allowing Patient 1 only 10 minutes to give his informed consent.

2) Not having Patient 1 execute the financial agreements prior to surgery and outside the waiting room.

3) Performing 2,900 grafts after advising Patient 1 that the maximum number of grafts would be 2,800.

4) Having non-medical personnel, consultants and technicians diagnosing hair loss and recommending hair restoration surgery.

5) Having non-medical personnel insert hair follicles.

6) Performing surgery without performing a physical examination.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

9. Respondent David Paul Deutsch, M.D. is subject to disciplinary action under Business and Professions Code section 2234, subdivision (c), in that he committed repeated negligent acts during the care, treatment and management of patients, as follows:

A. Complainant refers to and, by this reference, incorporates herein paragraph 8, above, as though fully set forth.

B. The following acts and omissions constitute departures from the standard of care.

1) Allowing Patient 1 only 10 minutes to give his informed consent.

2) Not having Patient 1 execute the financial agreements prior to surgery and outside the waiting room.

3) Performing 2,900 grafts after advising Patient 1 that the maximum number of grafts would be 2,800.

4) Having non-medical personnel, consultants and technicians, diagnosing hair loss and recommending hair restoration surgery.

5) Having non-medical personnel insert hair follicles.

6) Performing surgery without performing a physical examination.

THIRD CAUSE FOR DISCIPLINE

(Aiding and Abetting the Unlicensed Practice of Medicine)

10. Respondent David Paul Deutsch, M.D. is subject to disciplinary action under Business and Professions Code section 2264, in that he aided and abetted unlicensed individuals to engage in the practice of medicine, as follows:

A. Complainant refers to and, by this reference, incorporates herein paragraph 8, above, as though fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

11. Respondent David Paul Deutsch, M.D. is subject to disciplinary action under Business and Professions Code section 2234, generally, in that he committed unprofessional conduct during the care, treatment and management of Patient 1, as follows:

A. Complainant refers to and, by this reference, incorporates herein paragraph 8, above, as though fully set forth.

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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 83289, issued to David Paul Deutsch, M.D.;

2. Revoking, suspending or denying approval of David Paul Deutsch, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering David Paul Deutsch, 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: August 8, 2018

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

Complainant

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