

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

<b>In the Matter of the Accusation</b>	)	
<b>Against:</b>	)	
	)	
	)	
<b>Robert Andrew Achtel, M.D.</b>	)	<b>Case No. 02-2013-229841</b>
	)	
<b>Physician's and Surgeon's</b>	)	
<b>Certificate No. G 21923</b>	)	
	)	
<b>Respondent</b>	)	
_____	)	

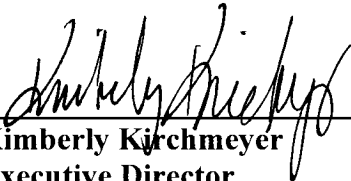
**DECISION**

**The attached Stipulated Surrender of License 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 27, 2017.**

**IT IS SO ORDERED January 20, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
\_\_\_\_\_  
**Kimberly Kirchmeyer**  
**Executive Director**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 MEGAN R. O'CARROLL  
Deputy Attorney General  
4 State Bar No. 215479  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5288  
Facsimile: (916) 327-2247

7 *Attorneys for Complainant*  
8  
9

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

13 In the Matter of the Accusation Against:

Case No. 02-2013-229841

14 **ROBERT ANDREW ACHTTEL, M.D.**  
15 **2315 Stockton Blvd.**  
16 **Sacramento, CA 95817**

OAH No. 2016061105

**STIPULATED SURRENDER OF LICENSE  
AND DISCIPLINARY ORDER**

17 **Physician's and Surgeon's Certificate**  
18 **No. G 21923**

Respondent.

19  
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 Kamala D. Harris, Attorney General of the State of California, by Megan R.  
27 O'Carroll, Deputy Attorney General.

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1 CULPABILITY

2 8. Respondent understands that the charges and allegations in Accusation No. 02-2013-  
3 229841, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and  
4 Surgeon's Certificate.

5 9. 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 *prima*  
7 *facie* for the charges in the Accusation and that those charges constitute cause for discipline.  
8 Respondent hereby gives up his right to contest that cause for discipline exists based on those  
9 charges.

10 10. Respondent understands that by signing this stipulation he enables the Board to issue  
11 an order accepting the surrender of his Physician's and Surgeon's Certificate without further  
12 process.

13 CONTINGENCY

14 11. Business and Professions Code section 224, subdivision (b), provides, in pertinent  
15 part, that the Medical Board "Shall delegate to its executive direction the authority to adopt a ...  
16 stipulation for surrender of a license."

17 12. This Stipulated Surrender of License and Disciplinary Order shall be subject to  
18 approval by the Executive Director on behalf of the Medical Board. The parties agree that the  
19 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive  
20 Director for her consideration in the above-entitled matter and, further, that the Executive  
21 Director shall have a reasonable period of time in which to consider and act on this Stipulated  
22 Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,  
23 Respondent fully understands and agrees that he may not withdraw his agreement or seek to  
24 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,  
25 considers and acts upon it.

26 13. The parties agree that this Stipulated Surrender of License and Disciplinary Order  
27 shall be null and void and not binding upon the parties unless approved and adopted by the  
28 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full

1 force and effect. Respondent fully understands and agrees that in deciding whether or not to  
2 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive  
3 Director and/or the Board may receive oral and written communications from its staff and/or the  
4 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the  
5 Executive Director, the Board, any member thereof, and/or any other person from future  
6 participation in this or any other matter affecting or involving Respondent. In the event that the  
7 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this  
8 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it  
9 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied  
10 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees  
11 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason  
12 by the Executive Director, Respondent will assert no claim that the Executive Director, the Board  
13 or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of  
14 this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related  
15 hereto.

16 14. The parties understand and agree that Portable Document Format (PDF) and facsimile  
17 copies of this Stipulated Surrender of License and Disciplinary Order, including Portable  
18 Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as  
19 the originals.

20 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
21 the Board may, without further notice or formal proceeding, issue and enter the following Order:

22 **ORDER**

23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 21923, issued  
24 to Respondent Robert Andrew Ahtel, M.D., is surrendered and accepted by the Medical Board  
25 of California.

26 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the  
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline  
28

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a part  
2 of Respondent's license history with the Medical Board of California.

3 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in  
4 California as of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
9 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
10 effect at the time the petition is filed, and all of the charges and allegations contained in  
11 Accusation No. 02-2013-229841 shall be deemed to be true, correct and admitted by Respondent  
12 when the Board determines whether to grant or deny the petition.

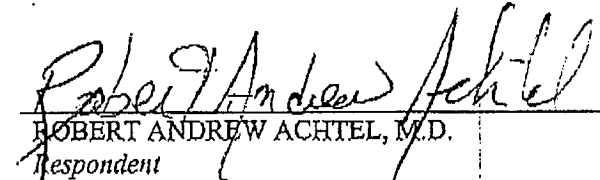
13 5. If Respondent should ever apply or reapply for a new license or certification, or  
14 petition for reinstatement of a license, by any other health care licensing agency in the State of  
15 California, all of the charges and allegations contained in Accusation, No. 02-2013-229841 shall  
16 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
17 Issues or any other proceeding seeking to deny or restrict licensure.

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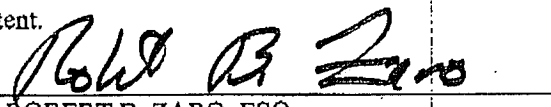
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney, Robert B. Zaro, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: Nov. 9, 2016   
ROBERT ANDREW ACHEL, M.D.  
*Respondent*


I have read and fully discussed with Respondent Robert Andrew Achte, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: 11/9/16   
ROBERT B. ZARO, ESQ.  
*Attorney for Respondent*

ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 1-9-17

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
  
MEGAN R. O'CARROLL  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 02-2013-229841**



1 KAMALA D. HARRIS  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 MIA PEREZ-ARROYO  
Deputy Attorney General  
4 State Bar No. 203178  
California Department of Justice  
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Telephone: (916) 322-0762  
7 Facsimile: (916) 327-2247  
*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO August 4, 2015  
BY: JYELLA KANALYST

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

11 In the Matter of the Accusation Against:

12 **ROBERT ACHEL, M.D.**  
13 P.O. Box 476  
Carmichael, CA 95609-0476

Case No. 02-2013-229841

**ACCUSATION**

14 Physician's and Surgeon's Certificate No. G21923

15 Respondent.

16  
17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs.

23 2. On or about January 18, 1972, the Medical Board of California issued Physician's and  
24 Surgeon's Certificate Number G21923 to Robert Achtel, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on May 31, 2017, unless renewed.

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JURISDICTION

1  
2         3. This Accusation is brought before the Medical Board of California (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

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

9         5. Section 2234 of the Code states:

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

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

15         "(b) Gross negligence.

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

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

21         "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
22 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
23 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
24 applicable standard of care, each departure constitutes a separate and distinct breach of the  
25 standard of care.

26         "(d) Incompetence.

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

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

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

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

9

10

**FIRST CAUSE FOR DISCIPLINE**

**(Gross Negligence)**

11

**[Bus. & Prof. Code, § 2234, subd. (b)]**

12

6. Respondent is subject to disciplinary action under Code section 2234, subdivision (b),  
13 in that he was grossly negligent in the care and treatment of a pediatric cardiac patient. The  
14 circumstances are as follows:

15

Patient O.G.-M.

16

7. On or about October 10, 2012, Patient O.G.-M., a two-month old child, presented to  
17 Respondent with a heart murmur. Respondent ordered an echocardiogram and a Holter test. He  
18 then sent the child home. Respondent interpreted the results of the echocardiogram that day as,  
19 "large ASD with left to right shunt, probable membranous VSD, marked right atrial and right  
20 ventricular and pulmonary artery dilatation." The following day, the patient returned to have the  
21 Holter removed. The child was noted to have a bluish tint to his skin caused by oxygen-poor  
22 blood. He was immediately sent to the Emergency Department where a cardiologist reinterpreted  
23 the echocardiogram and found critical congenital heart disease – cor triatriatum with severe  
24 pulmonary hypertension. The patient was immediately transferred to a tertiary care center via  
25 helicopter.

26

8. On or about October 12, 2012, Respondent amended his initial echocardiogram report  
27 of Patient O.G.-M. to include the possibility of Ebstein anomaly and to state that the images  
28 transmitted over the internet were poor.

1           9.     Respondent engaged in an extreme departure in his care and treatment of Patient  
2 O.G.-M. in that he failed to admit the patient with significant pulmonary hypertension.

3  
4                                   **SECOND CAUSE FOR DISCIPLINE**  
5                                   **(Repeated Negligent Acts)**  
6                                   **[Bus. & Prof. Code, § 2234, subd. (c)]**

7           10.    Respondent is subject to disciplinary action under Code section 2234, subdivision  
8 (c), for his repeated acts of negligence in his care and treatment of four patients. The  
9 circumstances are as follows:

10   Patient O.G.-M.

11           11.    Paragraphs 7 and 8 are incorporated herein as if fully set forth.

12           12.    Respondent engaged in a departure from the standard of care by ordering a Holter test  
13 for the evaluation of a heart murmur in the absence of an irregular heart rhythm.

14           13.    Respondent engaged in a departure in his care and treatment of when he failed to  
15 admit the patient with significant pulmonary hypertension.

16   Patient J.C.

17           14.    On or about April 7, 2010, Respondent started following Patient J.C. for a small atrial  
18 communication, a patent foramen ovale (PFO). On examination, the patient had a heart murmur  
19 with normal splitting of the second heart sound. An echocardiogram revealed the PFO. He was  
20 asked to return in one year.

21           15.    On or about April 6, 2011, Patient J.C. underwent a subsequent echocardiogram. The  
22 results were normal. Respondent's interpretation was, "spontaneous closure of a PFO/ASD." His  
23 progress note of the same day stated, "today's echo/Doppler confirms the PFO is still present."

24           16.    Respondent engaged in a departure from the standard of care in that his progress note  
25 did not reflect the results of the echocardiogram from on or about April 6, 2011.

26   Patient S.B.

27           17.    Patient S.B., a thirteen-year-old female, was initially seen by Respondent on or about  
28 October 28, 2009, for frequent dizzy episodes. She had an echocardiogram which showed trivial  
mitral insufficiency. Patient S.B. also underwent a stress echocardiogram. Respondent noted

1 that he felt the patient did not have any cardiac condition. There was no clinical or  
2 echocardiographic suggestion of mitral valve prolapse. Respondent, however, diagnosed the  
3 patient with mitral valve prolapse. He did not explore any other diagnoses.

4 18. The consultation letter to the patient's primary care physician for the October 28,  
5 2009, visit was not generated until November 7, 2009, and not signed by Respondent until  
6 November 9, 2009. Respondent saw Patient S.B. on or about January 4, 2012. The consultation  
7 letter, however, was not generated until March 4, 2012, and not signed by Respondent until  
8 March 7, 2012.

9 19. Respondent engaged in a departure from the standard of care in that he diagnosed  
10 Patient S.B. with mitral valve prolapse in the absence of clinical or echocardiographic indication  
11 and failed to explore alternative diagnoses.

12 20. Respondent engaged in a departure from the standard of care in that he delayed the  
13 production of the consultation letters from the patient's October 28, 2009, and January 4, 2012,  
14 visits.

15 21. Respondent engaged in a departure from the standard of care in that he ordered a  
16 stress echocardiogram work up for pre-syncope in a teenager with a normal cardiac examination.

17 Patient A.B.

18 22. Respondent followed Patient A.B. after surgery for a congenital heart defect with  
19 poor LV systolic function. The patient underwent echocardiograms on or about January 15, 2010,  
20 February 12, 2010, March 12, 2010, March 17, 2010, and April 9, 2010. The narrative in  
21 Respondent's reports state "normal LV systolic motion" and/or "normal LV systolic and diastolic  
22 function." The reported quantitative function was anywhere between 10% and 24%, which  
23 should have been stated as decreased rather than normal.

24 23. Respondent engaged in a departure from the standard of care by misinterpreting the  
25 echocardiograms as normal rather than decreased left ventricle systolic function.

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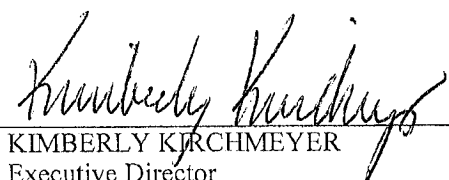
PRAYER

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 G21923, issued to Robert Achtel, M.D.;
2. Revoking, suspending or denying approval of Robert Achtel M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Robert Achtel, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

August 4, 2015

DATED: \_\_\_\_\_

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