BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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

v.

DAVID M. MORROW, M.D.,
116 N. Paul Drive
Beverly Hills, CA 90210

Physician’s and Surgeon’s Certificate
No. C33963,

Respondent.

Case No. 800-2016-025895
OAH No. 2017020274

STIPULATION OF THE PARTIES RE: INTERIM ORDER IMPOSING PRACTICE RESTRICTION AND 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. Petitioner Kimberly Kirchmeyer is the Executive Director of the Medical Board of California, and is represented in the above-entitled matter by Xavier Becerra, Attorney General of the State of California, by Deputy Attorney General Christine A. Rhee.

STIPULATION OF THE PARTIES RE: INTERIM ORDER IMPOSING PRACTICE RESTRICTION AND ORDER
2. Respondent David M. Morrow, M.D., is represented in this proceeding by Deborah deBoer, Esq., of Kramer, deBoer & Keane, whose address is 74770 U.S. Highway 111, Suite 201, Indian Wells, CA 92210-7127.

JURISDICTION

3. On January 1, 1972, the Medical Board of California issued Physician’s and Surgeon’s Certificate No. C33963 to David M. Morrow, M.D. (Respondent). The Physician’s and Surgeon’s Certificate is in full force and effect herein and will expire on October 31, 2018, unless renewed.

4. Pursuant to the provisions of California Government Code section 11529, an administrative law judge of the Medical Quality Hearing Panel established pursuant to section 11371 may issue an interim order suspending a license, or imposing drug testing, continuing education, supervision of procedures, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare.

FACTUAL BASIS FOR INTERIM ORDER

5. Respondent admits that he committed dishonest acts that were substantially related to the qualifications, functions or duties of a physician and surgeon. The circumstances are as follows:

(a) On or about September 2, 2015, Respondent was federally indicted in the case entitled, United States of America v. The Morrow Institute Medical Group, Inc., David M. Morrow, and Linda Morrow, Defendants, Case No. SACR15-00099. Respondent was charged with the following: 20 counts of a violation of 18 U.S.C. §§ 1341, 2(a), 2(b) [mail fraud]; one (1) count of a violation of 18 U.S.C. § 1349 [conspiracy to commit mail fraud]; four (4) counts of a violation of 26 U.S.C. § 7206(1) [making or subscribing to a false tax return]; and one (1) count
of a violation of 42 U.S.C. §§ 1320d-6(a)(3) and (b)(1) [unlawful disclosure of individually identifiable health information].

(b) On or about February 16, 2016, Respondent signed a plea agreement in the case entitled, United States of America v. The Morrow Institute Medical Group, Inc., David M. Morrow, and Linda Morrow, Defendants, Case No. SACR-15-00099, admitting to the factual basis for Counts 21 and 22 of the Indictment, conspiracy to commit mail fraud and making or subscribing to a false tax return.

c) In the plea agreement, Respondent admitted that he submitted altered documents to insurance companies relating to payment while having the intent to defraud those insurance companies.

d) On or about March 18, 2016, Respondent formally changed his plea from not guilty to guilty for Counts 21 and 22 of the Indictment for Case No. SACR-15-00099.

RESERVATION

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

7. Respondent agrees to the issuance of an Interim Order Imposing Practice Restriction under Government Code section 11529 immediately restricting his Physician’s and Surgeon’s Certificate No. C33963 and prohibiting him from practicing medicine in the State of California with the exception of his current practice at Lestonnac Free Clinic in Orange, Los Angeles, Riverside, and San Bernardino counties, pending further order from the Medical Board of California.

8. In exchange for Respondent’s agreement as contained in paragraph 7, above, Petitioner agrees to file this stipulation with the Office of Administrative Hearings in San Diego.

9. Based on the foregoing stipulations and agreements, the parties agree that an Interim Order should be issued immediately restricting Respondent’s Physician’s and Surgeon’s Certificate No. C33963 and immediately prohibiting him from practicing medicine in the State of California with the exception of his current practice at Lestonnac Free Clinic in Orange, Los Angeles, Riverside, and San Bernardino counties, pending further order from the Medical Board of California.
Angeles, Riverside, and San Bernardino counties, pending further order from the Medical Board of California.

10. Any motion to vacate the Interim Order issued in this case shall be filed in accordance with the provisions of Title 1, California Code of Regulations, sections 1006 and 1022. However, no such motion may be heard on an ex parte basis and any motion to vacate the Interim Order issued in this case shall be served on Petitioner’s counsel and filed with the Office of Administrative Hearings no less than thirty (30) business days prior to any hearing on the motion. Once served and filed, no such motion shall be decided without first affording the parties the opportunity to present oral argument.

11. Respondent may petition the Board to modify the terms of this agreement solely for the purpose of volunteering at other non-profit clinics. The Board retains the right to accept or deny Respondent’s request for any modification of this Stipulation.

WAIVERs

12. Respondent is fully aware of all of his rights under California Government Code section 11529, subdivision (d), to a noticed hearing on the issue of whether an interim order of suspension should be issued in the above-entitled matter, and all other rights accorded him under California Government Code section 11529, subdivision (d), at which he is entitled, at a minimum, to all the following rights:

   (a) To be represented by counsel.

   (b) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

   (c) To present written evidence in the form of relevant declarations, affidavits, and documents. The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

   (d) To present oral argument.

13. Respondent hereby knowingly, intelligently, freely and voluntarily waives and gives up each and every one of the rights set forth and/or referenced in paragraph 12, above.

STIPULATION OF THE PARTIES RE: INTERIM ORDER IMPOSING PRACTICE RESTRICTION AND ORDER
14. Respondent is fully aware of all of his rights under Government Code section 11529, subdivisions (f) and (g), which state as follows:

   "(f) In all cases where an interim order is issued, and an accusation is not filed and served pursuant to Sections 11503 and 11505 within 15 days of the date in which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved. Upon service of the accusation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

   "(g) Where an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached."

15. Respondent hereby knowingly, intelligently, freely and voluntarily waives and gives up each and every one of the rights set forth and/or referenced in paragraph 14, above.

16. Respondent hereby specifically, knowingly, intelligently, freely and voluntarily waives and gives up his right to an expedited hearing on the accusation within thirty (30) days, and an expedited issuance of a proposed decision within fifteen (15) days, all of which he is entitled to under Government Code section 11529, subdivisions (f) and (g).

**ADDITIONAL PROVISIONS**

17. The parties hereby stipulate that all proceedings in the above-entitled Interim Order matter shall be conducted at the Office of Administrative Hearings located in San Diego, California.

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18. The parties further stipulate that copies of this “Stipulation of the Parties Re: Interim Order Imposing Practice Restriction and Order,” including copies of signatures appearing thereon, may be used in lieu of original documents and signatures and, further, that such copies and signatures shall have the same force and effect as originals.

Dated: January 31, 2017
DAVID M. MORROW, M.D.
Respondent

Dated: February 2, 2017
DEBORAH DEBOER, ESQ.
Counsel for Respondent

Dated: January 2, 2017
XAVIER BECERRA
Attorney General of California
By CHRISTINE A. RHEE
Deputy Attorney General
Attorneys for Petitioner

INTERIM ORDER

Based on the foregoing stipulations and agreements, an Interim Order is hereby issued.

immediately restricting Physician’s and Surgeon’s Certificate No. C33963 heretofore issued by the Medical Board of California to Respondent David M. Morrow, M.D., and, accordingly, Respondent is hereby immediately prohibiting him from practicing medicine in the State of California, with the exception of his current practice at Lestonnac Free Clinic in in Orange, Los Angeles, Riverside, and San Bernardino counties, pending further order from the Medical Board of California. Any motion to vacate this Interim Order shall be filed in accordance with the provisions of Title 1, California Code of Regulations, sections 1006 and 1022. However, no such motion may be heard on an ex parte basis and any motion to vacate this Interim Order shall be served on Petitioner’s counsel and filed with the Office of Administrative Hearings no less than thirty (30) business days prior to any hearing on the motion. Once served and filed, no such motion shall be decided without first affording the parties the opportunity to present oral
argument. Respondent may petition the Board to modify the terms of this agreement solely for
the purpose of volunteering at other non-profit clinics. The Board retains the right to accept or
deny Respondent’s request for any modification of this Stipulation.

IT IS SO ORDERED this 7th day of February, 2017.

[Signature]
ADMINISTRATIVE LAW JUDGE