

1 5. Form I-693 must be completed by a USCIS approved civil
2 surgeon.

3 6. Form I-693, and regulations published by the Centers for
4 Disease Control, require that the USCIS approved civil surgeon test
5 visa applicants for HIV/AIDS, tuberculosis, and venereal diseases, and
6 then truthfully and accurately report those test and laboratory
7 results.

8 7. Civil Surgeon Instruction on Form I-693 inform civil
9 surgeons that it is illegal to knowingly and willfully conceal or
10 provide false information in connection with medical examinations.

11 8. Form I-693, and United States regulations, require that the
12 USCIS approved civil surgeon verify visa applicants' medical and
13 vaccination history. Specifically, Part 5, Civil Surgeon's
14 Certification :

15 *(Do not sign form or have the applicant sign in Part I until all*
16 *health follow-up requirements have been met.)*
17 I certify under penalty of perjury under United States law that:
18 I am a civil surgeon in current status designated to examine
19 applicants seeking certain immigration benefits in the United
20 States; I have a currently valid and unrestricted license to
21 practice medicine in the state where I am performing medical
22 examinations; I performed this examination of the person
23 identified in Part I of this Form I-693, after having made every
24 reasonable effort to verify that person whom I examined is the
25 person identified in Part 1; that I performed the examination in
26 accordance with the Centers for Disease Control and Prevention's
27 Technical Instructions, and all supplemental information or
28 updates; and that all information provided by me on this form is
true and correct to the best of my knowledge and belief.

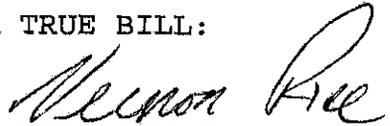
9. After the test results are received, the medical histories
verified, and the alien has been medically cleared, the USCIS approved
civil surgeon completes and signs the I-693, places it in a sealed
envelope, and then gives it to the visa applicant to submit to USCIS
with their visa application.

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<u>COUNT</u>	<u>DATE</u>	<u>APPLICANT</u>
1	January 8, 2008	T.B.
2	September 27, 2008	J.M.
3	December 18, 2008	M.A.A.
4	January 14, 2009	S.A.
5	February 4, 2009	S.D.
6	February 5, 2009	A.D.R.
7	April 23, 2009	J.T.
8	August 19, 2009	W.R.
9	November 19, 2009	S.J.

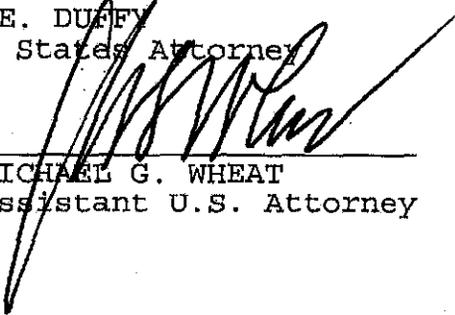
DATED: October 2, 2012.

A TRUE BILL:



 Foreperson

LAURA E. DUFFY
United States Attorney

By: 

 MICHAEL G. WHEAT
 Assistant U.S. Attorney

AO 245B (CASE) (Rev. 12/11) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2013 AUG 27 PM 2:04
OK

UNITED STATES OF AMERICA
v.
BARRY JULIAN BROOMBERG (1)

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 12CR4058-L
EUGENE IREDALE
Defendant's Attorney

FILED
SEP - 4 2013
CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY
OK

REGISTRATION NO. 35241298

THE DEFENDANT:

pleaded guilty to count(s) ONE (1) OF THE INDICTMENT

was found guilty on count(s)

after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
18 USC 1546(a)	VISA FRAUD	1

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)

Count(s) REMAINING is are dismissed on the motion of the United States.

Assessment: \$100

See fine page Forfeiture pursuant to order filed _____ included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

AUGUST 26, 2013

Date of Imposition of Sentence

HON. M. JAMES LORENZ
UNITED STATES DISTRICT JUDGE

I have executed within Probation
Judgement and Commitment on 9/3/13

United States Marshal

By: [Signature]
USMS Criminal Section

12CR4058-L

DEFENDANT: BARRY JULIAN BROOMBERG (1)
CASE NUMBER: 12CR4058-L

PROBATION

The defendant is hereby sentenced to probation for a term of:

THREE (3) YEARS.

The defendant shall not commit another federal, state, or local crime.

For offenses committed on or after September 13, 1994:

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- The defendant shall cooperate in the collection of a DNA sample from the defendant, pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000, pursuant to 18 USC sections 3563(a)(7) and 3583(d).
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution obligation, it is a condition of probation that the defendant pay any such fine or restitution in accordance with the Schedule of Payments sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the special conditions imposed.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: BARRY JULIAN BROOMBERG (I)

CASE NUMBER: 12CR4058-L

SPECIAL CONDITIONS OF SUPERVISION

- Submit person, residence, office or vehicle to a search, conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
- If deported, excluded, or allowed to voluntarily return to country of origin, not reenter the United States illegally and report to the probation officer within 24 hours of any reentry to the United States; supervision waived upon deportation, exclusion or voluntary departure.
- Not transport, harbor, or assist undocumented aliens.
- Not associate with undocumented aliens or alien smugglers.
- Not reenter the United States illegally.
- Defendant shall cooperate and comply with any supervision and monitoring by any physician or representative of the Medical Board.
- Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
- Not possess any narcotic drug or controlled substance without a lawful medical prescription.
- Not associate with known users of, smugglers of, or dealers in narcotics, controlled substances, or dangerous drugs in any form.
- Defendant shall surrender his DEA license (AB310572 6) and be prohibited from prescribing controlled substances. The only drugs he would be permitted to prescribe would be Acyclovir (an antiviral taken before skin peels); Valtrex (a similar anti-viral); and antibiotic medication and creams.
- Take no medication containing a controlled substance without valid medical prescription, and provide proof of prescription to the probation officer, if directed.
- Provide complete disclosure of personal and business financial records to the probation officer as requested.
- Notify the Collections Unit, United States Attorney's Office, of any interest in property obtained, directly or indirectly, including any interest obtained under any other name, entity, including a trust, partnership or corporation, until fine or restitution is paid in full.
- Defendant would be allowed to use local anesthesia by injection for treatment of cutaneous lesions.
- Resolve all outstanding warrants within _____ days.
- Complete 500 hours of volunteer service at a non-profit organization as approved by the probation officer.
- Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period of _____
- Notify the Collections Unit, United States Attorney's Office, before transferring any interest in any property owned directly or indirectly by him, including any interest held or owned under any other name or entity, including trusts, partnerships or corporations, until fine or restitution is paid in full.
- Consent to third party disclosure to any employer, or potential employer, concerning any restrictions that are imposed by the court, as well as the nature of his offense of conviction.

The only medical procedures Defendant will be permitted to perform under a medical license are cauterizing and removing warts, moles, and benign lesions; curettage of minor skin lesions, skin tag removal, treatment of sun damage, called actinic keratoses and removal of small lipoma (fatty tumors directly under the skin).

DEFENDANT: BARRY JULIAN BROOMBERG (1)
CASE NUMBER: 12CR4058-L

■

FINE

The defendant shall pay a fine in the amount of \$20,000 unto the United States of America.

This sum shall be paid immediately.
 x as follows:

Pay a fine in the amount of \$20,000 through the Clerk, U. S. District Court. Payment of fine shall be forthwith. During any period of incarceration the defendant shall pay fine through the Inmate Responsibility Program at the rate of 50% of the defendant's income, or \$25.00 per quarter, whichever is greater. The defendant shall pay the fine during his supervised release at the rate of \$600 per month. These payment schedules do not foreclose the United States from exercising all legal actions, remedies, and process available to it to collect the fine judgment.

Until fine has been paid, the defendant shall notify the Clerk of the Court and the United States Attorney's Office of any change in the defendant's mailing or residence address, no later than thirty (30) days after the change occurs.

The Court has determined that the defendant does have the ability to pay interest. It is ordered that:

 x The interest requirement is waived.

 The interest is modified as follows:

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

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

Barry Julian Broomberg, M.D.

**Physician's and Surgeon's
Certificate No. C 41796**

Respondent

Case No. 10-2012-227580

DECISION AND ORDER

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 October 17, 2014.

IT IS SO ORDERED October 10, 2014.

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
Deputy Attorney General
4 State Bar No. 155553
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2094
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9

10

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

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In the Matter of the Accusation Against:
BARRY JULIAN BROOMBERG, M.D.
1198 Van Nuys Street
San Diego, CA 92109-1254
Physician's and Surgeon's Certificate
No. C41796

Respondent.

Case No. 10-2012-227580

OAH No. 2013101036

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

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

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PARTIES

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1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Martin W. Hagan, Deputy Attorney General.

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2. Barry Julian Broomberg, M.D. (Respondent) is represented in this proceeding by attorney George R. Najjar, Esq., whose address is 1901 First Ave., 1st Floor, San Diego, CA 92101.

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1 CULPABILITY

2 8. Respondent admits to the complete truth and accuracy of all of the charges and
3 allegations in the First Cause of Discipline, paragraphs 10 through 17, in Accusation No. 10-
4 2012-227580, a true and correct copy of which is attached hereto as Exhibit "A," and that he has
5 thereby subjected his Physician's and Surgeon's Certificate No. C41796 to disciplinary action. In
6 addition, Respondent does not contest that, at an administrative hearing, complainant could
7 establish a *prima facie* case with respect to all of the remaining charges and allegations in
8 Accusation No. 10-2012-227580, and that he has thereby further subjected his Physician's and
9 Surgeon's Certificate No. C41796 to disciplinary action. Respondent hereby surrenders his
10 Physician's and Surgeon's Certificate No. C41796 for the Board's formal acceptance.

11 9. Respondent further agrees that if he ever petitions for reinstatement of his Physician's
12 and Surgeon's Certificate No. C41796, or if an accusation and/or petition to revoke probation is
13 filed against him before the Medical Board of California, all of the charges and allegations
14 contained in Accusation No. 10-2012-227580 shall be deemed true, correct, and fully admitted by
15 Respondent for purposes of any such proceeding or any other licensing proceeding involving
16 Respondent in the State of California or elsewhere.

17 10. Respondent understands that by signing this stipulation he enables the Executive
18 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his
19 Physician's and Surgeon's Certificate No. C41796 without further notice or opportunity to be
20 heard.

21 CONTINGENCY

22 11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
23 part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . .
24 stipulation for surrender of a license."

25 12. This Stipulated Surrender of License and Disciplinary Order shall be subject to
26 approval of the Executive Director on behalf of the Medical Board. The parties agree that this
27 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive
28 Director for her consideration in the above-entitled matter and, further, that the Executive

1 Director shall have a reasonable period of time in which to consider and act on this Stipulated
2 Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,
3 Respondent fully understands and agrees that he may not withdraw his agreement or seek to
4 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,
5 considers and acts upon it.

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

24 **ADDITIONAL PROVISIONS**

25 14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
26 herein to be an integrated writing representing the complete, final and exclusive embodiment of
27 the agreements of the parties in the above-entitled matter.

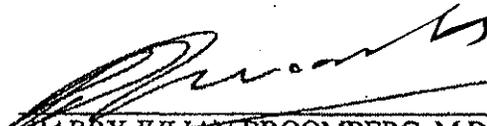
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1 be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement
2 of Issues or any other proceeding seeking to deny or restrict licensure.

3 ACCEPTANCE

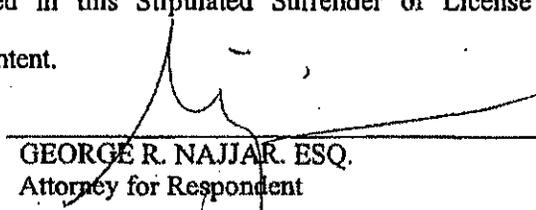
4 I have carefully read the above Stipulated Surrender of License and Disciplinary Order and
5 have fully discussed it with my attorney, George R. Najjar, Esq. I understand the stipulation and
6 the effect it will have on my Physician's and Surgeon's Certificate No. C41796. I enter into this
7 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
8 be bound by the Decision and Disciplinary Order of the Medical Board of California.

9
10 DATED: 9/9/14


11 BARRY JULIAN BROOMBERG, M.D.
Respondent

12 I have read and fully discussed with Respondent Barry Julian Broomberg, M.D. the terms
13 and conditions and other matters contained in this Stipulated Surrender of License and
14 Disciplinary Order. I approve its form and content.

15 DATED: 9/9/14


16 GEORGE R. NAJJAR, ESQ.
Attorney for Respondent

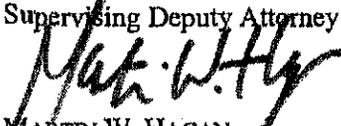
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18 ENDORSEMENT

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

22 Dated: 9-9-2014

Respectfully submitted,

23 KAMALA D. HARRIS
Attorney General of California
24 THOMAS S. LAZAR
Supervising Deputy Attorney General


25
26 MARTIN W. HAGAN
Deputy Attorney General
Attorneys for Complainant

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28 SD2013705586/70929514.doc

Exhibit A

Accusation No. 10-2012-227580

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KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
MARTIN W. HAGAN
Deputy Attorney General
State Bar No. 155553
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San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2094
Facsimile: (619) 645-2061

Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 3, 20 13
BY Ian K. McGlone ANALYST

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

In the Matter of the Accusation Against:
BARRY JULIAN BROOMBERG, M.D.
6515 La Jolla Blvd.
La Jolla, CA 92037
Physician's and Surgeon's Certificate
No. C41796

Respondent.

Case No. 10-2012-227580

ACCUSATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Medical Board of California, Department of Consumer Affairs, and not otherwise.
2. On or about April 8, 1985, the Medical Board of California issued Physician's and Surgeon's Certificate Number C41796 to Barry Julian Broomberg, 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 April 30, 2014, unless renewed.

////

1 JURISDICTION

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, be publicly
8 reprimanded, or have such other 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 conduct¹ 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 "...

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

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

19 "...."

20 6. Section 2261 of the Code states:

21 "Knowingly making or signing any certificate or other document directly or indirectly
22 related to the practice of medicine or podiatry which falsely represents the existence or
23 nonexistence of a state of facts, constitutes unprofessional conduct."

24 ////

25 _____
26 ¹ Unprofessional conduct under California Business and Professions Code section 2234 is
27 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
28 unbecoming a member in good standing of the medical profession, and which demonstrates an
unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
575.)

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7. Section 2262 of the Code states:

“Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.”

8. Section 2266 of the Code states:

“The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.”

9. Section 2236 of the Code states:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

“(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

“(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

////

////

1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Crime Substantially Related to the Qualifications, Functions or Duties of a
3 Physician and Surgeon)

4 10. Respondent has subjected his Physician's and Surgeon's Certificate Number C41796
5 to disciplinary action under sections 2227 and 2234, as defined by section 2236, of the Code, in
6 that he has been convicted of a crime substantially related to the qualifications, functions, or
7 duties of a physician and surgeon, as more particularly alleged herein:

8 11. On or about October 12, 2012, a nine-count federal indictment ("indictment") was
9 filed against respondent in the United States District Court, Southern District of California, in the
10 action entitled *United States of America v. Barry Julian Broomberg*, Case No. 12-CR-4058L.
11 The indictment charged respondent, the owner of La Jolla Medical Associates, with Visa Fraud in
12 violation of Title 18, U.S.C., Section 1546, subdivision (a), as a result of him knowingly making
13 false statements, under penalty of perjury, on Report of Medical Examination and Vaccination
14 Record forms (referred to as Form I-693 forms).

15 12. According to the indictment, "[a]ll applicants for United States Visas must submit a
16 completed Report of Medical Examination and Vaccination Record (Form I-693)." (Indictment,
17 at ¶ 3.) The "Form I-693" must be completed by a USCIS [United States Citizenship and
18 Immigration Services] approved civil surgeon." (*Id.*, at 5.) The "Form I-693, and regulations
19 published by the Centers for Disease Control, require that the USCIS approved civil surgeon test
20 visa applicants for HIV/AIDS, tuberculosis, and venereal diseases, and then truthfully and
21 accurately report those tests and laboratory results." (*Id.*, at ¶ 6.) The "Civil Surgeon Instruction
22 of Form I-693 inform civil surgeons that it is illegal to knowingly and willfully conceal or
23 provide false information in connection with medical examinations." (*Id.*, at ¶ 7.) The "Form I-
24 693, and United States regulations, require that the USCIS approved civil surgeon verify [the]
25 visa applicants' medical and vaccination history."² (*Id.*, at ¶ 8.) "After the test results are

26 ² According to the indictment, "Part 5, Civil Surgeon's Certification [provides]: (Do not
27 sign form or have the applicant sign in Part I until all health follow-up requirements have been
28 met.) I certify under penalty of perjury under United States law that: I am a civil surgeon in
current status designated to examine applicants seeking certain immigration benefits I the United
(continued...)

1 the medical histories verified, and the alien has been medically cleared, the USCIS approved civil
2 surgeon completes and signs the I-693, places it in a sealed envelope, and then gives it to the visa
3 applicant to submit to USCIS with their visa application.” (*Id.*, at ¶ 9.)

4 13. In regard to the nine counts alleged against respondent, the indictment alleged the
5 following criminal conduct:

6 “On or about the dates listed below, in the Southern District of California, defendant
7 BARRY JULIAN BLOOMBERG, did knowingly subscribe as true, under penalty of
8 perjury, as permitted under Section 1746 of Title 28, United States Code, a false
9 statement with respect to a material fact in an application and document required by
10 the immigration laws and regulations, that is that the visa applicants listed below had
11 been medically tested and cleared for HIV/AIDS, tuberculosis, and syphilis, which
12 statement defendant BROOMBERG then and there knew false, in that he had
13 completed and signed United States Citizenship and Immigration Services Form I-
14 693 without perform[ing] the required tests and examinations; in violation of Title 18,
15 United States Code, Section 1546 (a).”

16 14. In regard to the above criminal conduct, the indictment alleged the following criminal
17 count numbers, dates and applicants: Count 1 on January 8, 2008, as to Applicant T.B.; Count 2
18 on September 27, 2008, as to Applicant J.M.; Count 3 on December 18, 2008, as to Applicant
19 M.A.A.; Count 4 on January 14, 2009 as to Applicant S.A.; Count 5 on February 4, 2009, as to
20 Applicant S.D.; Count 6 on February 5, 2009, as to Applicant A.D.R.; Count 7 on April 23, 2009,
21 as to Applicant J.T.; Count 8 on August 19, 2009, as to Applicant W.R.; and Count 9 on
22 November 19, 2009, as to Applicant S.J.

23 15. On or about April 29, 2013, respondent, who was represented by counsel, entered into
24 a written plea agreement to resolve the criminal charges against him in the indictment. In
25 executing the plea agreement, respondent, among other things, agreed to plead guilty to Count 1
26 of the indictment which charged him with Visa Fraud, in violation of Title 18, U.S.C., § 1746.
27 As a further part of the plea agreement, respondent also, among other things, admitted there was a

28 States; I have a currently valid and unrestricted license to practice medicine in the state where I
am performing medical examinations; I performed this examination of the person identified in
Part I of this Form I-693, and having made every reasonable effort to verify that person whom I
examined is the person identified in Part I; that I performed the examination in accordance with
the Centers for Disease Control and Prevention’s Technical Instructions, and all supplemental
information or updates; and that all information provided by me on this form is true and correct to
the best of my knowledge and belief.” (Indictment, at ¶8.)

1 factual basis for his guilty plea, acknowledged the potential criminal penalties associated with his
2 guilty plea, and acknowledged that he was waiving any right to appeal and/or any other collateral
3 attack on any conviction and sentencing. As to each of the nine (9) counts set forth above in
4 Paragraph 14, respondent admitted that each of the applicants, on the dates set forth in the
5 indictment, "had a single visit with [respondent] for a medical examination associate[d] with the
6 completion of form I-693 [and] [respondent] falsely completed the I-693 claiming to have tested
7 the applicant/patient knowing he had not performed any of the required tests in paragraph II.B.5,
8 [of the plea agreement]."³ As a further part of the plea agreement, respondent agreed to a term of
9 supervised release of three years, to pay a criminal fine of \$20,000, to surrender his medical
10 license and to complete 500 hours of community service.

11 16. On or about August 26, 2013, the parties to the criminal action filed an addendum to
12 the written plea agreement. As part of the addendum, the parties to the criminal matter changed
13 the term of the plea agreement regarding respondent's voluntary surrender of his medical license.
14 The voluntary surrender provision was removed from the plea agreement and replaced with a
15 provision which restricted the medical procedures that respondent could perform with his medical
16 license to "cauterizing and removing warts, moles, and benign lesions; curettage of minor skin
17 lesions, skin tag removal, treatment of sun damage, called actinic keratosis and removal of small
18 lipoma (fatty tumors directly under the skin)."

19 17. On or about September 4, 2013, the District Court accepted the terms of the written
20 plea agreement, including the addendum, and respondent was sentenced on his guilty plea to
21 Count One of the Indictment for Visa Fraud, in violation of Title 18, U.S.C., § 1746. Respondent
22 was sentenced to three years formal probation which included, but was not limited to, no unlawful
23 use of controlled substances, submitting to periodic drug testing, no "excessive use of alcohol and
24 [respondent] shall not purchase, possess, use, distribute, or administer any controlled substance or

25
26 ³ Paragraph II.B.5. of the plea agreement states "Form I-693 must be completed by a
27 USCIS approved civil surgeon, and regulations published by the Centers for Disease Control,
28 require that the USCIS approved civil surgeon test visa applicants for tuberculosis, venereal
diseases, and other diseases; then truthfully and accurately report those test[s] and laboratory
results."

1 any paraphernalia related to any controlled substances, except as prescribed by a physician,”
2 “cooperate and comply with any supervision and monitoring by any physician or representative of
3 the Medical Board,” 500 hours of community service and a limitation on the medical procedures
4 respondent could perform with his medical license to “cauterizing and removing warts, moles,
5 and benign lesions; curettage of minor skin lesions, skin tag removal, treatment of sun damage,
6 called actinic keratosis and removal of small lipoma (fatty tumors directly under the skin)” and
7 other terms and conditions of probation as set forth more specifically in the Judgment in a
8 Criminal Case for Case No. 12-CR-4058L.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Dishonesty or Corruption)**

11 18. Respondent has further subjected his Physician’s and Surgeon’s Certificate Number
12 C41796 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
13 subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption in
14 making dishonest statements, material misrepresentations and/or material omissions by falsely
15 completing the I-693 forms in which he claimed to have done the required examination and/or
16 testing when, in truth and fact, he had not, as more particularly alleged in paragraphs 10 through
17 17, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Knowingly Creating or Signing False Documents Related to the Practice of Medicine)**

20 19. Respondent has further subjected his Physician’s and Surgeon’s Certificate
21 Number C41796 to disciplinary action under sections 2227 and 2234, as defined by section 2261,
22 of the Code, in that he has knowingly made or signed a certificate or other document directly or
23 indirectly related to the practice of medicine which falsely represents the existence or
24 nonexistence of a state of facts, by documenting services and/or tests that were not actually
25 performed and certifying that such services and/or tests were actually performed when, in truth
26 and fact, they were not, as more particularly alleged in paragraphs 10 through 17, above, which
27 are hereby incorporated by reference and realleged as if fully set forth herein.

28

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Creation of Fraudulent Medical Records)**

3 20. Respondent has further subjected his Physician's and Surgeon's Certificate Number
4 C41796 to disciplinary action under sections 2227 and 2234, as defined by section 2262 of the
5 Code, in that he has knowingly created false or fraudulent medical records with fraudulent intent
6 by documenting services and/or tests that were not actually performed and certifying that such
7 services and/or tests were actually performed, when, in truth and fact, they were not, as more
8 particularly alleged in paragraphs 10 through 17, above, which are hereby incorporated by
9 reference and realleged as if fully set forth herein.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Maintain Adequate Records)**

12 21. Respondent has further subjected his Physician's and Surgeon's Certificate Number
13 C41796 to disciplinary action under sections 2227 and 2234, as defined by section 2266 of the
14 Code, in that he has failed to maintain adequate and accurate medical records by documenting
15 services and/or tests that were not actually performed, when, in truth and fact, they were not, as
16 more particularly alleged in paragraphs 10 through 17, above, which are hereby incorporated by
17 reference and realleged as if fully set forth herein.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(General Unprofessional Conduct)**

20 22. Respondent has further subjected his Physician's and Surgeon's Certificate Number
21 C41796 to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the
22 Code, in that he engaged in conduct which breaches the rules or ethical code of the medical
23 profession, or conduct which is unbecoming to a member in good standing of the medical
24 profession, and which demonstrates an unfitness to practice medicine, as more particularly
25 alleged in paragraphs 10 through 21, above, which are hereby incorporated by reference and
26 realleged as if fully set forth herein.

27 ////

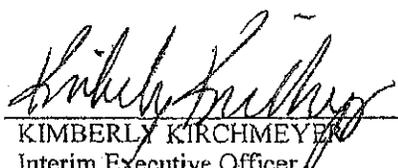
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PRAYER

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 C41796, issued to respondent Barry Julian Broomberg, M.D.
2. Revoking, suspending or denying approval of respondent Barry Julian Broomberg, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. Ordering Barry Julian Broomberg, 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.

DATED: October 3, 2013



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

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