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

In the Matter of the Accusation Against:	)	
MICHAEL GOLDMAN, M.D.	)	Case No. 17-2010-207744
Physician's and Surgeon's Certificate No. A 66810	)	
Respondent	)	

DECISION

The attached Default Decision and 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 19, 2012.

IT IS SO ORDERED September 21, 2012.

MEDICAL BOARD OF CALIFORNIA

By: _____
Linda K. Whitney
Executive Director

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

In the Matter of the Accusation Against, MICHAEL GOLDMAN, M.D. 4610 Park Adelfa Calabasas, California 91302-1707 Physician's and Surgeon's Certificate A 66810, Respondent.	Case No. 17-2010-207744 **DEFAULT DECISION & ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 25, 2012 Complainant Linda K. Whitney, in her official capacity as the Executive Director of the Medical Board of California, filed Accusation number 17-2010-207744 against Michael Goldman, M.D. (Respondent) before the Medical Board of California (Board).

2. On or about October 23, 1998, the Board issued Physician's and Surgeon's Certificate number a 66810 to Respondent. That license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless renewed. (See Exhibit A.)

3. On or about May 25, 2012, Hye Rim Park, an employee of the board, served by a Certified Mail a copy of Accusation number 17-2010-207744, a Statement to Respondent, a Notice of Defense, and a Request for Discovery at Respondent's address of record with the

Board, which was and continues to be 4610 Park Adelfa, Calabasas, California 91302-1707. A copy of the Accusation, the related documents, and Declaration of Service are attached as Exhibit B, and are incorporated herein by reference. (See Exhibit B.) On or about June 4, 2012, the Medical Board received a signed green certified mail receipt from the United States Postal Service that confirmed the documents in Exhibit B were signed for as received on June 1, 2012. A copy of the return receipt is attached as Exhibit C, and is incorporated herein by reference. (See Exhibit C.)

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 17-2010-207744.

6. On August 20, 2012, three months after the notice of defense was due, Deputy Attorney General Cindy M. Lopez emailed Respondent another copy of the Notice of Defense, along with the Statement to Respondent. She asked him to sign the notice of defense and email it back to her the following day, even though this was far beyond the due date.

7. On August 20, 2012, Deputy Attorney General Cindy M. Lopez left a voicemail for Respondent at his office and on his cell phone asking him to return the Notice of Defense by the following day. As of this date, DAG Lopez has not received either a return phone call or a Notice of Defense. (Exhibit D.)

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A, B and C, finds that the allegations in Accusation No. 17-2010-207744 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Michael Goldman, M.D. has subjected his Physician's and Surgeon's Certificate No. A 66810 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the following violations alleged in the Accusation.

5. Specifically, Respondent is subject to disciplinary action for his care and treatment of two patients. The Accusation provides the basis for revocation of Respondent's license pursuant to Business and Professions Code section 2234, subdivision (b), (gross negligence), and a violation of Business and Professions Code section 2234, subdivision (c) (repeated negligent acts). The accusation was based upon findings by two experts, Dr. Levine and Dr. Sahba. Their declarations, expert reports, and CV's are attached hereto as Exhibits E and F.

ORDER

IT IS ORDERED THAT Physician's and Surgeon's Certificate number A 66810, heretofore issued to Respondent Michael Goldman, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within

seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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

In the Matter of the Accusation Against: MICHAEL GOLDMAN, M.D. 4610 Park Adelfa Calabasas, CA 91302-1707 Physician's and Surgeon's Certificate No. A 66810 Respondent.	Case No. 17-2010-207744 **ACCUSATION**

Complainant alleges:

PARTIES

1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California.

2. On or about October 23, 1998, the Medical Board of California issued Physician's and Surgeon's Certificate number A 66810 to Michael Goldman, M.D. (Respondent). His license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, 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 Division deems proper.

5. Section 2234 of the Code states:

"The Division of Medical Quality[1] 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 [Chapter 5, the Medical Practice Act].

"(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."

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[1] Pursuant to Business and Professions Code section 2002, "Division of Medical Quality" or "Division" shall be deemed to refer to the Medical Board of California.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence - Patient A.B.)

6. Respondent is subject to disciplinary action under section 2234, subdivision (b) in that he was grossly negligent in his care and treatment of patient A.B. The circumstances are as follows:

7. Respondent is a psychiatrist who sees patients at Sherman Oaks Health and Rehabilitation Center (SOHRC). A complaint was filed by T.C., the son of patient A.B. T.C.claimed there was unwanted, unwarranted and inappropriate care by Respondent.

8. Respondent consulted A.B. without a physician's order when she was at SOHRC. Respondent did not consult the family nor did he receive permission from the patient to consult. In addition, there was no request by the facility to see A.B.

9. A.B. signed into SOHRC in July 2003 and T.C. requested that he be involved in all care decisions, which included any physician assignment as well as pharmacological treatment. A.B. was healthy enough to make all decisions herself when she signed into SOHRC.

10. Respondent first saw A.B. on September 17, 2007. His medical records show he had done depression screening and dementia screening and they were normal. There was no real mental status plan nor a differential diagnosis. Respondent did give her a diagnosis of Dementia and Alzheimer's, but without any physical, neurological, or other testing to support the diagnosis.

11. Respondent next saw A.B. a week later on September 25, 2007. He continued the patient on Effexor, but it was such a low dose that it could not have any major effect on her condition. Effexor is an antidepressant for treatment of major depression but A.B. did not display the symptoms for such a diagnosis. There was no documentation that Respondent was asked to see A.B. on this day. Respondent next saw A.B. on October 1, 2007 and then on May 7, 2008.

12. There were 22 dates of services billed, but only 10 medical records written. The dates of service of September 17, 2007, September 25, 2007, and October 1, 2007 had billing records with supporting medical records. Respondent's billing showed he saw A.B. on October 17, 2007, November 5, December 5, and December 19, 2007. The billing showed Respondent saw A.B. on

January 7, 2008, January 23, February 5, February 13, March 3, March 17, April 16 and April 19, 2008, but there were no supporting medical records for any of those dates.

13. Not only did Respondent prescribe an anti-depressant for a patient who did not have depression, but he prescribed Aricept for dementia; however, there was no evidence she had Dementia either.

Allegations of Gross Negligence:

14. Respondent should have seen this patient only when requested. He seemed to consult on his own volition and rendered unnecessary care.

15. Respondent's notes were unreadable and did not contain the necessary evidence of evaluation.

16. Respondent would arrive at a diagnosis without appropriate evidence and then did not even treat appropriately for that diagnosis. He did not render adequate treatment from either a diagnosis or treatment standpoint.

17. There needs to be a progress note for every visit billed. There were visits that were billed but no corresponding progress notes.

18. Psychotropic medications are used for specific psychiatric conditions. Effexor was used to treat depression but it was an inappropriate diagnosis for A.B. Respondent prescribed Aricept to prevent dementia, despite the lack of symptoms establishing dementia.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts - Patient J.S.)

19. Respondent is subject to disciplinary action under section 2234, subdivision (c) in that he was negligent in his care and treatment of patient J.S. The circumstances are as follows:

20. W.L. is the son of J.S., a patient at SOHRC. W.L. complained that Respondent was not authorized to visit J.S.

21. J.S. was admitted to SOHRC on September 29, 2009, with a variety of ailments including Alzheimer's dementia. There are two notes in the chart from Respondent dated September 30, 2009 and October 7, 2009. These are the only notes in the patient's chart, yet

Respondent billed for visits on those dates, and for visits on October 21, 2009, November 11, 2009, November 18, 2009, December 5, 2009, December 30, 2009, January 12, 2010 and January 20, 2010.

Allegations of Negligence

22. In a nursing home facility, it is the standard of care to see a patient once a month. According to Respondent's billing records, he visited J.S. nine times in four months. The medical chart did not support this.

23. Respondent believed the patient needed to be treated with antipsychotic medications and he was aware the family was against this. Respondent continued to visit J.S. without contacting the family or the primary care doctor.

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 A 66810, issued to Michael Goldman, M.D.

2. Revoking, suspending or denying approval of his authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering him to pay the Medical Board of California the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

4. Taking such other and further action as deemed necessary and proper.

DATED: May 25, 2012

LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant