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9  
10 BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
11 STATE OF CALIFORNIA

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

Petitioner,

14  
15 v.

16 MARCO ANTONIO CHAVEZ, M.D.  
1855 1st Avenue, Suite 200 B  
17 San Diego, CA 92101

18 Physician's and Surgeon's  
Certificate No. A 115932,

Respondent.

Case No. 800-2017-030714

OAH No. 2018041292

~~STIPULATION OF THE PARTIES RE:  
INTERIM SUSPENSION ORDER AND  
ORDER~~

*Interim Suspension  
Order*

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. Petitioner Kimberly Kirchmeyer is the Executive Director of the Medical Board of  
25 California and is represented in the above-entitled matter by Xavier Becerra, Attorney General of  
26 the State of California, by Deputy Attorney General Giovanni F. Mejia.

27 2. Respondent Marco Antonio Chavez, M.D., (Respondent) is representing himself in  
28 this proceeding and has chosen not to exercise his right to be represented by counsel.

JURISDICTION

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2       3.    On February 25, 2011, the Medical Board of California (Board) issued Physician's  
3 and Surgeon's Certificate No. A 115932 to Respondent. On May 7, 2018, Administrative Law  
4 Judge Susan J. Boyle issued an ex parte Interim Suspension Order in the above-entitled matter  
5 which remains in full force and effect at the present time and, as a result, Physician's and  
6 Surgeon's Certificate No. A 115932 remains suspended and Respondent remains prohibited from  
7 practicing medicine in the State of California.

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

FACTUAL BASIS FOR INTERIM SUSPENSION ORDER

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19       5.    The noticed hearing on the Interim Suspension Order issued on May 7, 2018 in the  
20 above-entitled matter is presently set for May 23, 2018, at 10:00 a.m., at the Office of  
21 Administrative Hearings located at 1350 Front Street, Room 3005, San Diego, CA 92101.

22       6.    Respondent agrees that the ex parte Interim Suspension Order issued by  
23 Administrative Law Judge Susan J. Boyle on May 7, 2018, in the above-entitled matter shall  
24 remain in full force and effect and, as a result, that Physician's and Surgeon's Certificate  
25 No. A 115932 which was issued by the Board to Respondent shall remain suspended, and  
26 Respondent shall remain prohibited from practicing medicine in the State of California, pending  
27 the issuance of a final Decision and Order by the Board on an Accusation to be filed against him.

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

8 WAIVERS

9 8. Respondent is fully aware of his right under California Government Code  
10 section 11529, subdivision (c), to a noticed hearing on the ex parte Petition for Interim  
11 Suspension Order issued on May 7, 2018, in the above-entitled matter, as well as all other rights  
12 accorded to him under California Government Code section 11529, subdivision (d), which  
13 include, at a minimum, the following:

14 (1) To be represented by counsel;

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

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

22 (4) To present oral argument.

23 9. Respondent hereby knowingly, intelligently, freely and voluntarily waives and gives  
24 up each and every one of the rights set forth and/or referenced in paragraph 8, above.

25 10. Respondent is fully aware of all of his rights under California Government Code  
26 section 11529, subdivisions (f) and (g), which provide, in pertinent part:

27 "(f) In all cases where an interim order is issued, and an accusation is not filed  
28 and served pursuant to Sections 11503 and 11505 within 30 days of the date in which

1 the parties to the hearing on the interim order have submitted the matter, the order shall  
2 be dissolved. Upon service of the accusation the licensee shall have, in addition to the  
3 rights granted by this section, all of the rights and privileges available as specified in  
4 this chapter. If the licensee requests a hearing on the accusation, the board shall  
5 provide the licensee with a hearing within 30 days of the request, unless the licensee  
6 stipulates to a later hearing, and a decision within 15 days of the date the decision is  
7 received from the administrative law judge, or the board shall nullify the interim order  
8 previously issued, unless good cause can be shown by the Division of Medical Quality  
9 for a delay.

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

14 11. Respondent is fully aware that he has the right to the filing of an accusation based on  
15 the underlying charges within thirty (30) days from the submission of the matter at the noticed  
16 hearing on May 23, 2018. Respondent hereby knowingly, intelligently, freely and voluntarily  
17 waives and gives up each and every one of the rights set forth and/or referenced in paragraph 10,  
18 above.

19 12. Respondent hereby specifically, knowingly, intelligently, freely and voluntarily  
20 waives and gives up his right to the expedited filing of an accusation, an expedited hearing on the  
21 accusation, and an expedited issuance of a proposed decision, all of which he is entitled to under  
22 Government Code section 11529, subdivisions (f) and (g).

23 **ADDITIONAL PROVISIONS**

24 13. The parties hereby stipulate that copies of this "Stipulation of the Parties Re: Interim  
25 Suspension Order and Order," including copies of the signatures of the parties, may be used in  
26 lieu of original documents and signatures and, further, that such copies shall have the same force  
27 and effect as originals.

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Dated: May 22, 2018

Marco Chavez  
MARCO ANTONIO CHAVEZ, M.D.  
Respondent

Dated: May 22, 2018

Xavier Becerra  
XAVIER BECERRA  
Attorney General of California  
By GIOVANNI F. MEJIA  
Deputy Attorney General  
Attorneys for Petitioner

**INTERIM SUSPENSION ORDER**

Based on the foregoing stipulations and agreements, the Interim Suspension Order issued on May 7, 2018 shall remain in full force and effect, suspending Physician's and Surgeon's Certificate No. A 115932 heretofore issued by the Medical Board of California to Respondent Marco Antonio Chavez, M.D., and, accordingly, Respondent is prohibited from practicing medicine in the State of California pending further order from the Office of Administrative Hearings. Any motion to vacate this Interim Suspension 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 Suspension 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.

IT IS SO ORDERED this 22<sup>nd</sup> day of May, 2018.

Robert Walker  
ADMINISTRATIVE LAW JUDGE