

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

In the Matter of the Second Amended )  
Accusation Against: )  
)  
)  
**STEPHEN GENE KOLKOW, M.D.** )  
)  
Physician's and Surgeon's )  
Certificate No. A-79480 )  
)  
Respondent )  
\_\_\_\_\_ )

File No. 10-2005-169209

**DECISION**

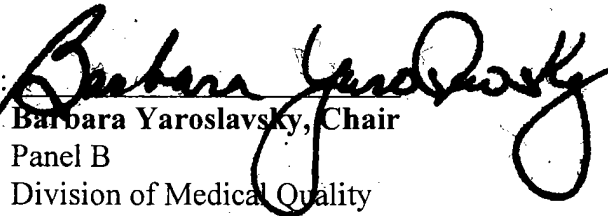
The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 24, 2007.

IT IS SO ORDERED October 17, 2007.

MEDICAL BOARD OF CALIFORNIA

By:

  
Barbara Yaroslavsky, Chair  
Panel B  
Division of Medical Quality

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 THOMAS S. LAZAR, State Bar No. 120621  
Supervising Deputy Attorney General  
3 California Department of Justice  
110 West "A" Street, Suite 1100  
4 San Diego, CA 92101  
5 P.O. Box 85266  
San Diego, CA 92186-5266  
6 Telephone: (619) 645-2117  
Facsimile: (619) 645-2061  
7  
8 Attorneys for Complainant

9 **BEFORE THE**  
10 **DIVISION OF MEDICAL QUALITY**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Second Amended  
15 Accusation Against:

16 STEPHEN GENE KOLKOW, M.D.  
17 302 Washington Avenue, Apt. #746  
18 San Diego, CA 92103

19 Physician's and Surgeon's Certificate  
20 No. A 79480,

21 Respondent.

Case No. 10-2005-169209

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
23 proceeding that the following matters are true:

24 **PARTIES**

25 1. Barbara Johnston (Complainant) is the Executive Director of the Medical  
26 Board of California. She is represented in this matter by Edmund G. Brown Jr., Attorney  
27 General of the State of California, by Thomas S. Lazar, Supervising Deputy Attorney General.

28 2. Stephen Gene Kolkow, M.D. (Respondent), is represented in this matter  
by M. Gayle Askren, Esq., whose address is 825 Alameda Boulevard, Coronado, CA 92118,  
telephone: (619) 435-9303.

///

1                   3.       On or about June 14, 2002, the Medical Board of California issued  
2 Physician's and Surgeon's Certificate No. A 79480 to respondent. The Certificate was in full  
3 force and effect at all times relevant to the charges brought in Second Amended Accusation No.  
4 10-2005-169209 and will expire on March 31, 2008, unless renewed. On November 14, 2005,  
5 an *ex parte* Interim Order of Suspension was issued immediately suspending respondent's  
6 Physician's and Surgeon's Certificate No. A 79480 and prohibiting him from practicing medicine  
7 in the State of California pending a noticed hearing. On December 5, 2005, that noticed hearing  
8 was held and, on December 13, 2005, an Interim Order of Suspension was issued by  
9 Administrative Law Judge Greer D. Knopf suspending respondent's Physician's and Surgeon's  
10 Certificate No. A 79480. Thereafter, on February 7, 2006, Judge Knopf approved the  
11 "Stipulation of the Parties Re Interim Order of Suspension and Continuation of Disciplinary  
12 Hearing and Order," wherein respondent agreed his Physician's and Surgeon's Certificate No.  
13 A 79480 would remain suspended and he would remain prohibited from practicing medicine in  
14 the State of California, pending the issuance of a final Decision and Order by the Division of  
15 Medical Quality in Case No. 10-2005-169209. As a result, respondent remains suspended from  
16 the practice of medicine as of the date of the execution of this Stipulated Surrender of License  
17 and Order.

### 18                   JURISDICTION

19                   4.       On December 29, 2005, Accusation No. 10-2005-169209 was filed by  
20 David T. Thornton, in his then official capacity as the Executive Director of the Medical Board,  
21 before the Division of Medical Quality (Division) of the Medical Board of California,  
22 Department of Consumer Affairs. On December 29, 2005, respondent was properly served with  
23 a true and correct copy of Accusation No. 10-2005-169209 and all other statutorily required  
24 documents. On or about January 9, 2006, respondent filed a Notice of Defense contesting  
25 Accusation No. 10-2005-169209 and stating he was then represented by James Dunn, Esq.

26                   5.       On January 27, 2006, First Amended Accusation No. 10-2005-169209 was  
27 filed by David T. Thornton, in his then official capacity as the Executive Director of the Medical  
28 Board, before the Division. On January 27, 2006, respondent was properly served with a true

1 and correct copy of First Amended Accusation No. 10-2005-169209 and all other statutorily  
2 required documents.

3             6. On April 27, 2007, Second Amended Accusation No. 10-2005-169209  
4 was filed by David T. Thornton, in his then official capacity as the Executive Director of the  
5 Medical Board, before the Division. On April 27, 2007, respondent was properly served with a  
6 true and correct copy of Second Amended Accusation No. 10-2005-169209 and all other  
7 statutorily required documents. On or about July 6, 2007, a Notice of Defense was filed on  
8 respondent's behalf by his current attorney of record, M. Gayle Askren, Esq., contesting the  
9 Second Amended Accusation No. 10-2005-169209. A true and correct copy of Second Amended  
10 Accusation No. 10-2005-169209 is attached hereto as Exhibit A and incorporated by reference as  
11 if fully set forth herein.

12   **ADVISEMENT AND WAIVERS**

13             7. Respondent has carefully read and fully understands the charges and  
14 allegations contained in Second Amended Accusation No. 10-2005-169209, and has fully  
15 reviewed and discussed same with his attorney of record, M. Gayle Askren, Esq.

16             8. Respondent has carefully read and fully understands the contents, force,  
17 and effect of this Stipulated Surrender of License and Order, and has fully reviewed and  
18 discussed same with his attorney of record, M. Gayle Askren, Esq.

19             9. Respondent is fully aware of his legal rights in this matter, including his  
20 right to a hearing on the charges and allegations in Second Amended Accusation No.  
21 10-2005-169209; his right to confront and cross-examine the witnesses against him; his right to  
22 present evidence and to testify on his own behalf; his right to the issuance of subpoenas to  
23 compel the attendance of witnesses and the production of documents; his right to reconsideration  
24 and court review of an adverse decision; and all other rights accorded him by the California  
25 Administrative Procedure Act, the California Code of Civil Procedure, and other applicable laws,  
26 having been fully advised of same by his attorney of record, M. Gayle Askren, Esq.

27             10. Respondent, having the benefit of counsel, hereby voluntarily, knowingly,  
28 and intelligently waives and gives up each and every right set forth and/or referenced above.

1 CULPABILITY

2 11. Respondent admits the complete truth and accuracy of each and every  
3 charge and allegation in Second Amended Accusation No. 10-2005-169209, agrees that he has  
4 thereby subjected his Physician's and Surgeon's Certificate No. A 79480 to disciplinary action,  
5 and hereby surrenders his Physician's and Surgeon's Certificate No. A 79480 for the Division's  
6 formal acceptance.

7 12. Respondent understands that by signing this Stipulated Surrender of  
8 License and Order he is enabling the Division to issue an order accepting the surrender of his  
9 Physician's and Surgeon's Certificate No. A 79480 without further notice or opportunity to be  
10 heard.

11 CONTINGENCY

12 13. This Stipulated Surrender of License and Order shall be subject to  
13 approval by the Division. The parties agree that this Stipulated Surrender of License and Order  
14 shall be submitted to the Division for its consideration in the above-entitled matter and, further,  
15 that the Division shall have a reasonable period of time in which to consider and act on this  
16 stipulation after receiving it. By signing this stipulation, respondent fully understands and agrees  
17 that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the  
18 Division considers and acts upon it.

19 14. The parties agree that this Stipulated Surrender of License and Order shall  
20 be null and void and not binding upon the parties unless approved and adopted by the Division,  
21 except for this paragraph, which shall remain in full force and effect. Respondent fully  
22 understands and agrees that counsel for complainant and the staff of the Medical Board of  
23 California may communicate directly with the Division regarding this Stipulated Surrender of  
24 License and Order, without notice to or participation by respondent or his counsel.  
25 Communications pursuant to this paragraph shall not disqualify the Division, any member  
26 thereof, and/or any other person from future participation in this or any other matter affecting or  
27 involving respondent. In the event that the Division, in its discretion, does not approve and adopt  
28 this Stipulated Surrender of License and Order, with the exception of this paragraph, it shall not

1 become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or  
2 introduced in any disciplinary action by either party hereto. Respondent further agrees that  
3 should the Division reject this Stipulated Surrender of License and Order for any reason,  
4 respondent will assert no claim that the Division, or any member thereof, was prejudiced by  
5 its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and  
6 Order or of any matter or matters related thereto.

7 **ADDITIONAL MATTERS**

8 15. This Stipulated Surrender of License and Order is intended by the parties  
9 herein to be an integrated writing representing the complete, final and exclusive embodiment of  
10 the agreements of the parties in the above-entitled matter.

11 16. The parties agree that facsimile copies of this Stipulated Surrender of  
12 License and Order, including facsimile signatures of the parties, may be used in lieu  
13 of original documents and signatures and, further, that facsimile copies and signatures shall have  
14 the same force and effect as originals.

15 17. In consideration of the foregoing admissions and stipulations, the parties  
16 agree that the Division may, without further notice to or opportunity to be heard by respondent,  
17 issue and enter the following Order:

18 **ORDER**

19 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No.  
20 A 79480, issued to respondent Stephen Gene Kolkow, M.D., is surrendered and accepted by the  
21 Division of Medical Quality.

22 1. The surrender of respondent's Physician's and Surgeon's Certificate  
23 No. A 79480 and the acceptance of that surrendered license by the Division shall constitute the  
24 imposition of discipline against respondent. This Stipulated Surrender of License and Order  
25 constitutes a record of the discipline and shall become a part of respondent's license history with  
26 the Division.

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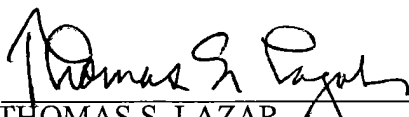
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**ENDORSEMENT**

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

DATED: September 25, 2007.

EDMUND G. BROWN JR., Attorney General  
of the State of California

By   
THOMAS S. LAZAR  
Supervising Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005701794  
80150715.wpd



**Exhibit A**

**Second Amended Accusation No. 10-2005-169209**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO April 27, 2007  
BY R. E. Macate

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 THOMAS LAZAR  
Supervising Deputy Attorney General  
3 D. KENNETH BAUMGARTEN, State Bar No. 124371  
Deputy Attorney General  
4 California Department of Justice  
110 West "A" Street, Suite 1100  
5 San Diego, California 92101  
P.O. Box 85266  
6 San Diego, California 92186-5266  
Telephone: (619) 645-2195  
7 Facsimile: (619) 645-2061  
8 Attorneys for Complainant

9  
10 **BEFORE THE**  
11 **DIVISION OF MEDICAL QUALITY**  
12 **MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:  
14 **STEPHEN GENE KOLKOW, M.D.**  
3707 5<sup>th</sup> Avenue, #746  
15 San Diego, CA 92103  
16 Physician's and Surgeon's  
Certificate No. A 79480  
17  
18 Respondent.

Case No. 10-2005-169209

**SECOND AMENDED ACCUSATION**  
(Cal. Gov. Code, § 11503.)

19 Complainant David T. Thornton, as causes for disciplinary action, alleges:

20 **PARTIES**

21 1. Complainant is the Executive Director of the Medical Board of California,  
22 Department of Consumer Affairs, State of California (hereinafter the "Board"), and makes and  
23 files this Second Amended Accusation solely in his official capacity.  
24 2. At all times mentioned herein, Stephen Gene Kolkow, M.D., (hereinafter  
25 "Respondent") has been licensed by the Medical Board under Physician's and Surgeon's  
26 Certificate A 79480. Said certificate was issued by the Board on June 14, 2002, and will expire  
27 on March 31, 2008, unless renewed.

28 ///

1 JURISDICTION

2 3. This Second Amended Accusation, which supercedes both the original  
3 Accusation filed in the above-entitled matter on December 29, 2005, and the First Amended  
4 Accusation filed on January 27, 2006, is brought before the Division of Medical Quality  
5 ("Division") of the Medical Board of California under the authority of the following laws.<sup>1/</sup>

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

10 5. Section 2234 of the Code provides that the Division of Medical Quality  
11 shall take action against any licensee who is charged with unprofessional conduct. In addition to  
12 other provisions of this article, unprofessional conduct includes, but is not limited to, the  
13 following:

14 “(a) Violating or attempting to violate, directly or indirectly, assisting in  
15 or abetting the violation of, or conspiring to violate any provision of this chapter  
16 [Chapter 5, the Medical Practice Act].

17 “(b) Gross negligence.

18 “(c) Repeated negligent acts. ...

19 “(d) Incompetence.

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

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

24 “...”

25 ///

26  
27  
28 1. All section references are to the California Business and Professions Code (“Code”) unless otherwise indicated.

1 6. Unprofessional conduct under California Business and Professions Code  
2 section 2234 is conduct which breaches the rules or ethical code of the medical profession, or  
3 conduct which is unbecoming to a member in good standing of the medical profession, and  
4 which demonstrates an unfitness to practice medicine.<sup>2</sup>

5 7. Section 2236, subdivision (a), of the Code provides that the conviction of  
6 any offense substantially related to the qualifications, functions, or duties of a physician and  
7 surgeon constitutes unprofessional conduct.

8 8. Section 2232, subdivision (a), of the Code provides that the Board shall  
9 promptly revoke the license of any person who, at any time after January 1, 1947, has been  
10 required to register as a sex offender pursuant to the provisions of Section 290 of the California  
11 Penal Code.

#### 12 **PROCEDURAL HISTORY**

13 9. On November 10, 2005, Complainant filed a Petition for Interim Order of  
14 Suspension (ISO) of Respondent's Certificate No. A 79480. This Petition was filed on the basis  
15 that Respondent had been arrested for and had admitted engaging in acts constituting violations  
16 of the Medical Practice Act and that permitting Respondent to continue to engage in the practice  
17 of medicine would endanger the public health, safety and welfare.

18 10. On November 14, 2005, an *ex parte* hearing was held on Complainant's  
19 ISO Petition at the Office of Administrative Hearings in San Diego before Presiding  
20 Administrative Law Judge Steven Adler. Judge Adler thereafter issued the *ex parte* ISO and  
21 ordered Respondent to appear for the noticed hearing on December 5, 2005, to show cause why  
22 the ISO should not remain in full force and effect pending the outcome of these proceedings  
23 before the Medical Board.

24 11. On December 5, 2005, the noticed ISO hearing took place at the Office of  
25 Administrative Hearings in San Diego before Administrative Law Judge Greer D. Knopf.  
26 Complainant appeared through counsel and the ISO matter was submitted on the previously filed  
27

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28 2. *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 ISO pleadings without further oral argument. No opposition was filed by Respondent at this  
2 hearing.

3 12. On December 13, 2005, Judge Knopf issued her Decision suspending  
4 Respondent's Certificate No. A 79480, pending the outcome of these proceedings before the  
5 Board's Division of Medical Quality.

6 **FIRST CAUSE FOR DISCIPLINARY ACTION**

7 (General Unprofessional Conduct)

8 13. Respondent has subjected his Physician's and Surgeon's Certificate No.  
9 A 79480 to disciplinary action under sections 2227 and 2234 of the Code, in that he committed  
10 general unprofessional conduct as a result of his admitted sexual abuse of a minor female family  
11 member between approximately January 2002 through June 2004. The details are as follows:

12 A. On or about August 24, 2005, the California Department of Justice  
13 reported to the Board that Respondent had been arrested for violations of California Penal  
14 Code Sections 288.5(a) (Continuous Sexual Abuse of Child) and 288(a) (Lewd or  
15 Lascivious Acts with Child under 14). A subsequent Board investigation confirmed  
16 Respondent's arrest on August 19, 2005 following felony charges:

17 Penal Code §288 - Crimes against children / lewd or lascivious conduct;  
18 Penal Code §288(a) - Lewd / lascivious acts; child under 14 years;  
19 Penal Code §288.5 - Continuous sexual abuse of a child;  
20 Penal Code §289(a) - Sexual penetration w/foreign object w/force.

21 B. On or about August 24, 2005, felony criminal charges were filed  
22 against Respondent in San Diego County Superior Court. A total of 36 criminal charges  
23 were filed against Respondent that include:

24 Three counts - Penal Code §288.5(a) - (Continuous sexual abuse of a child)  
25 Thirty counts - Penal Code §288(a) - (Lewd act upon a child)  
26 Three counts - Penal Code §288a (c)(1) - (Oral copulation of a person under 14)

27 C. These criminal violations are alleged to have occurred between  
28 January 1, 2002 and June 30, 2004, when the victim was between the ages of 8 and 11  
years old. The above criminal charges are based on admissions made by Respondent  
when he was interviewed by police on or about August 19, 2005.

1                                    **SECOND CAUSE FOR DISCIPLINARY ACTION**

2                                    (Conviction of a Crime )

3                    14.        Respondent has further subjected his Physician's and Surgeon's Certificate  
4 No. A 79480 to disciplinary action under section 2236 of the Code, in that on or about  
5 January 29, 2007, he was convicted of crimes substantially related to the qualifications,  
6 functions, or duties of a physician and surgeon. The details are as follows:

7                                    A.        On or about August 8, 2006, Respondent pled guilty to thirteen  
8 (13) felony counts of lewd acts on a child under 14 years of age (Penal Code §288(a)) and  
9 one (1) felony count of oral copulation (Penal Code §288(a)(c)(1)).

10                                  B.        On or about January 29, 2007, Respondent received a sentence of  
11 ten (10) years in state prison for the 14 felony counts to which he pled guilty. However,  
12 execution of this sentence was suspended and Respondent was placed on 5 years formal  
13 probation. In granting probation, the court found, pursuant to Penal Code  
14 §1203.066(a)(8), specific criteria that reportedly justified a probationary sentence. In  
15 addition to probation, Respondent was ordered to serve 365 days in county jail and was  
16 given credit for the 190 days in jail he already had served. In addition, Respondent was  
17 ordered to pay fines and restitution and was further required to register as a sex offender  
18 pursuant to Penal Code section 290.

19                                    **THIRD CAUSE FOR DISCIPLINARY ACTION**

20                                    (Mandatory Revocation as a Registered Sex Offender)

21                    15.        Pursuant to section 2232 of the Code, Respondent's Physician's and  
22 Surgeon's Certificate No. A 79480, is subject to mandatory revocation by the Board as a result of  
23 his criminal conviction sentence requirement that he register as a sex offender pursuant to section  
24 290 of the Penal Code.

25                                  A.        Paragraphs 13 and 14 in their entirety are hereby incorporated by  
26 reference as if fully set forth herein.

27        ///

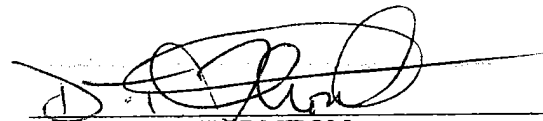
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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters  
3 alleged herein, and that following the hearing, the Division of Medical Quality, Medical Board of  
4 California, issue its Decision and Order:

- 5 1. Revoking or suspending Physician's and Surgeon's Certificate No.  
6 A 79480, heretofore issued by the Board to STEPHEN GENE KOLKOW, M.D.;
- 7 2. Ordering the mandatory revocation of Physician's and Surgeon's  
8 Certificate No. A 79480, heretofore issued by the Board to STEPHEN GENE KOLKOW,  
9 M.D., as required by section 2232 of the Code;
- 10 3. Revoking, suspending or denying Respondent's approval authority  
11 to supervise physician's assistants pursuant to Code section 3527; and
- 12 4. Taking such other and further action as the Board deems necessary  
13 and proper.

14 DATED: April 27, 2007.

15 

16 DAVID T. THORNTON  
17 Executive Director  
18 Medical Board of California  
19 Department of Consumer Affairs  
20 State of California

Complainant

21 DKB/ Kolkow  
22 Second Amended Accusation  
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