

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

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

Joycie Maria Smith, M.D.

**Physician's and Surgeon's
Certificate No. A 88572**

Case No. 800-2017-035981

Respondent.

DECISION

**The attached Stipulated Settlement of License 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 JUN 03 2020.

IT IS SO ORDERED MAY 27 2020.

MEDICAL BOARD OF CALIFORNIA

By:


**Christine J. Lally
Interim Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
4 State Bar No. 237509
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2017-035981

13 **JOYCIE MARIA SMITH, M.D.**
14 **Unit 433**
2101 Shoreline Drive
Alameda, CA 94501

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No. A**
16 **88572**

17 Respondent.
18

19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Medical Board of California of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 **PARTIES**

25 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
26 Board of California (Board). She brought this action solely in her official capacity and is
27 represented in this matter by Xavier Becerra, Attorney General of the State of California, by Greg
28 W. Chambers, Deputy Attorney General.

2. Joycie Maria Smith, M.D. (Respondent) is represented in this proceeding by attorney Richard P. Margarita, whose address is: P.O. Box 1257, Rancho Murieta, CA 95683.

3. On or about August 13, 2004, the Board issued Physician's and Surgeon's Certificate No. A 88572 to Respondent. The Physician's and Surgeon's Certificate expired on March 31, 2018, and has not been renewed.

JURISDICTION

4. Accusation No. 800-2017-035981 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 1, 2019. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2017-035981 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-035981. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2017-035981, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 88572, issued to Respondent Joycie Maria Smith, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
2 of Respondent's license history with the Board.

3 2. Respondent shall lose all rights and privileges as a physician and surgeon in
4 California as of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
6 issued, her wall certificate on or before the effective date of the Decision and Order.

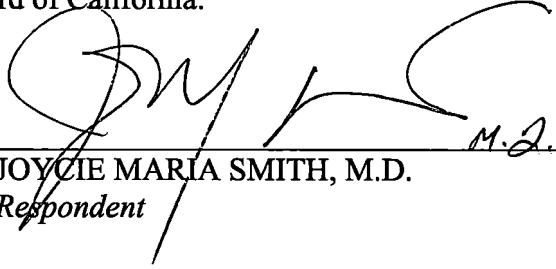
7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
9 comply with all the laws, regulations and procedures for reinstatement of a revoked or
10 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
11 contained in Accusation No. 800-2017-035981 shall be deemed to be true, correct and admitted
12 by Respondent when the Board determines whether to grant or deny the petition.

13 5. If Respondent should ever apply or reapply for a new license or certification, or
14 petition for reinstatement of a license, by any other health care licensing agency in the State of
15 California, all of the charges and allegations contained in Accusation, No. 800-2017-035981 shall
16 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
17 Issues or any other proceeding seeking to deny or restrict licensure.

18 **ACCEPTANCE**

19 I have carefully read the above Stipulated Surrender of License and Order and have fully
20 discussed it with my attorney Richard P. Margarita, Esq. I understand the stipulation and the
21 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
22 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
23 by the Decision and Order of the Medical Board of California.

24
25 DATED: May 08, 2020

26 
JOYCE MARIA SMITH, M.D.
Respondent

1 I have read and fully discussed with Respondent Joycie Maria Smith, M.D. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED:

MAY 13, 2020


Richard P. Margarita, Esq.
Attorney for Respondent

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7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Medical Board of California of the Department of Consumer Affairs.

10 DATED:

5/18/2020

Respectfully submitted,

11 XAVIER BECERRA
12 Attorney General of California
13 MARY CAIN-SIMON
14 Supervising Deputy Attorney General

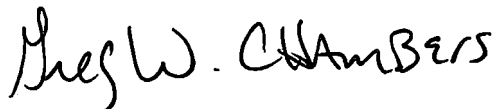

15 GREG W. CHAMBERS
16 Deputy Attorney General
17 Attorneys for Complainant
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Exhibit A

Accusation No. 800-2017-035981

1 XAVIER BECERRA
2 Attorney General of California
3 MARY CAIN-SIMON
4 Supervising Deputy Attorney General
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12 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV. 1 20 19
BY ANDREA CORMAN ANALYST

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

In the Matter of the Accusation Against:

Case No. 800-2017-035981

Joycie Maria Smith, M.D.,
2101 Shoreline Drive, Unit 433
Alameda, CA 94501

ACCUSATION

Physician's and Surgeon's Certificate
No. A 88572,

Respondent.

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about August 13, 2004, the Medical Board issued Physician's and Surgeon's Certificate Number A 88572 to Joycie Maria Smith, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on March 31, 2018, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code authorizes the Board to take action against a licensee by revoking, suspending for a period not to exceed one year, placing the license on probation and requiring payment of costs of probation monitoring, or taking such other action taken as the Board deems proper.

5. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

Further, Section 2228.1 of the Code demands that a licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or

1 health care surrogate, a separate, signed copy of that disclosure.

2 6. Section 2239 of the Code states in pertinent part:

3 “(a) The use or prescribing for or administering to himself or herself, of any controlled
4 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
5 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
6 any other person or to the public, or to the extent that such use impairs the ability of the licensee
7 to practice medicine safely or more than one misdemeanor or any felony involving the use,
8 consumption, or self-administration of any of the substances referred to in this section, or any
9 combination thereof, constitutes unprofessional conduct. The record of the conviction is
10 conclusive evidence of such unprofessional conduct.”

11 7. Section 820 of the Code provides that whenever it appears that a licensee may be
12 unable to practice his or her profession safely as a result of mental illness or physical illness
13 affecting competency, the licensing agency may order an examination of licensee.

14 8. Section 822 of the Code provides that, if a licensing agency determines that a
15 licensee's ability to practice his or her profession safely is impaired because of mental or physical
16 illness affecting competency, the licensing agency may take action by revoking the licensee's
17 certificate or license, suspending the licensee's right to practice, placing the licensee on probation,
18 or taking such other action in relation to the licensee as the licensing agency in its discretion
19 deems proper.

20 FACTS

21 9. On or about July 29, 2017, Respondent completed a 24-hour shift at Kaiser-San
22 Leandro. After the shift ended, Respondent attempted to sleep in the anesthesia call room at the
23 hospital.

24 10. While in the call room, Respondent used a 10cc syringe and injected herself with
25 propofol.¹

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27 ¹ Propofol is an intravenous sedative-hypnotic agent for use in the induction and
28 maintenance of anesthesia or sedation. It is a dangerous drug as described in section 4022. It is a
respiratory depressant with common side effects including irregular heart rate, low blood
pressure, burning sensation at the site of the injection, and the cessation of breathing.

1 11. Respondent has admitted to other non-prescribed uses of propofol.

2 12. On August 13, 2019, Respondent voluntarily underwent a full evaluation by a Board
3 appointed psychiatrist.

4 13. In a report to the Board dated August 22, 2019, the psychiatrist concluded that
5 Respondent has chronic anxiety and depression that has resulted in a propofol addiction, and
6 noted that Respondent, herself, admitted to the addiction. The psychiatrist concluded that without
7 the imposition of certain restrictions or conditions to Respondent's Physician's and Surgeon's
8 Certificate, Respondent presents a risk to patient safety.

9 **CAUSE FOR DISCIPLINE**

10 **(Mental Impairment)**

11 14. Respondent's certificate is subject to Board action pursuant to Sections 822, 2227,
12 and 2239 of the Code, in that due to a mental illness and her controlled substance use, her ability
13 to practice medicine safely is impaired.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Medical Board of California issue a decision:

17 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 88572,
18 issued to Joycie Maria Smith, M.D.;

19 2. Revoking, suspending or denying approval of Joycie Maria Smith, M.D.'s authority to
20 supervise physician assistants and advanced practice nurses;

21 3. Ordering Joycie Maria Smith, M.D., if placed on probation, to pay the Board the costs
22 of probation monitoring;

23 4. Ordering Respondent Joycie Maria Smith, M.D., if placed on probation, to disclose
24 the disciplinary order to patients pursuant to section 2228.1 of the Code; and

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26 ///

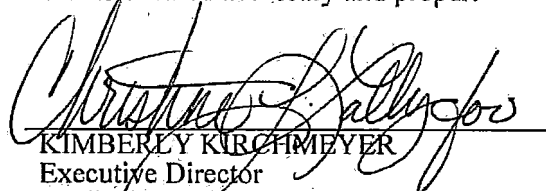
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5. Taking such other and further action as deemed necessary and proper.

DATED: November 1, 2019


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