

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

In the Matter of the Accusation Against:

Frank Javier Goicoechea, M.D.

Physician's and Surgeon's
Certificate No. G 41001

Respondent.

Case No. 800-2018-040351

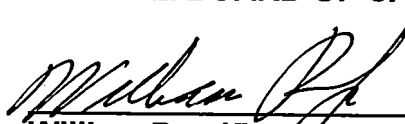
DECISION

The attached Stipulated Surrender 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 November 16, 2020.

IT IS SO ORDERED November 19, 2020.

MEDICAL BOARD OF CALIFORNIA



William Prasifka
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
Deputy Attorney General
4 State Bar No. 253172
600 West Broadway, Suite 1800
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P.O. Box 85266
6 San Diego, CA 92186-5266
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2018-040351

14 **FRANK JAVIER GOICOECHEA, M.D.**
15 **3755 Avocado Blvd, #412**
La Mesa, CA 91941-7301

OAH No. 2019080431

16 **Physician's and Surgeon's**
17 **Certificate No. G 41001**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
24 California (Board). Former Executive Director Kimberly Kirchmeyer brought this action solely
25 in her then official capacity as Executive Director of the Board.¹ William Prasifka is represented
26 in this matter by Xavier Becerra, Attorney General of the State of California, by Jason J. Ahn,
27 Deputy Attorney General.

28 ¹ Kimberly Kirchmeyer became Director of the California Department of Consumer
Affairs effective October 28, 2019.

1 CULPABILITY

2 8. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 800-2018-040351 and that he has thereby subjected his license to disciplinary action.

5 9. Respondent understands that by signing this stipulation he enables the Board to issue
6 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
7 process.

8 10. Respondent further agrees that if he ever petitions for reinstatement of his Physician's
9 and Surgeon's Certificate No. G 41001, or if an accusation is filed against him before the Medical
10 Board of California, all of the charges and allegations contained in First Amended Accusation
11 No. 800-2018-040351 shall be deemed true, correct, and fully admitted by Respondent for
12 purposes of any such proceeding or any other licensing proceeding involving Respondent in the
13 state of California or elsewhere.

14 CONTINGENCY

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

18 12. This Stipulated Surrender of License and Disciplinary Order shall be subject to
19 approval of the Executive Director on behalf of the Medical Board. The parties agree that this
20 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director
21 for her consideration in the above-entitled matter and, further, that the Executive Director shall
22 have a reasonable period of time in which to consider and act on this Stipulated Surrender of
23 License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully
24 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
25 prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon
26 it.

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1 ACCEPTANCE

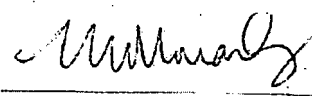
2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Marilyn R. Moriarty, Esq. I fully understand the stipulation and
4 the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
5 Surrender of License and Order voluntarily, knowingly, and intelligently, and fully agree to be
6 bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 09/28/2020


FRANK JAVIER GOICOECHEA, M.D.
Respondent

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

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16 DATED: September 28, 2020


MARILYN R. MORIARTY, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED: 10/26/2020

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General



JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-040351

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11

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

13

In the Matter of the Accusation Against:

Case No. 800-2018-040351

14

Frank Javier Goicoechea, M.D.
3755 Avocado Blvd., #412
La Mesa, CA 91941-7301

ACCUSATION

15

16

Physician's and Surgeon's Certificate
No. G 41001.

17

18

Respondent.

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Complainant alleges:

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PARTIES

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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).

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2. On or about October 9, 1979, the Medical Board issued Physician's and Surgeon's Certificate No. G 41001 to Frank Javier Goicoechea, 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 December 31, 2020, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2227 of the Code states:

5 “(a) A licensee whose matter has been heard by an administrative law judge
6 of the Medical Quality Hearing Panel as designated in Section 11371 of the
7 Government Code, or whose default has been entered, and who is found guilty,
8 or who has entered into a stipulation for disciplinary action with the board, may, in
9 accordance with the provisions of this chapter:

10 “(1) Have his or her license revoked upon order of the board.

11 “(2) Have his or her right to practice suspended for a period not to exceed
12 one year upon order of the board.

13 “(3) Be placed on probation and be required to pay the costs of probation
14 monitoring upon order of the board.

15 “(4) Be publicly reprimanded by the board. The public reprimand may
16 include a requirement that the licensee complete relevant educational courses approved by
17 the board.

18 “(5) Have any other action taken in relation to discipline as part of an order
19 of probation, as the board or an administrative law judge may deem proper.

20 “(b) Any matter heard pursuant to subdivision (a), except for warning letters,
21 medical review or advisory conferences, professional competency examinations,
22 continuing education activities, and cost reimbursement associated therewith that
23 are agreed to with the board and successfully completed by the licensee, or other
24 matters made confidential or privileged by existing law, is deemed public, and shall be
25 made available to the public by the board pursuant to Section 803.1.”

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1 5. Section 726 of the Code states:

2 “(a) The commission of any act of sexual abuse, misconduct, or relations with a patient,
3 client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any
4 person licensed under this or under any initiative act referred to in this division.

5 “(b) This section shall not apply to consensual sexual contact between a licensee and his or
6 her spouse or person in an equivalent domestic relationship when that licensee provides medical
7 treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent
8 domestic relationship.”

9 6. 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 conduct includes, but
12 is not limited to, the following:

13 “... ”

14 “(b) Gross negligence.

15 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent
16 acts or omissions. An initial negligent act or omission followed by a separate and distinct
17 departure from the applicable standard of care shall constitute repeated negligent acts.

18 “(1) An initial negligent diagnosis followed by an act or omission medically
19 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

20 “(2) When the standard of care requires a change in the diagnosis, act, or omission
21 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
22 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs
23 from the applicable standard of care, each departure constitutes a separate and distinct
24 breach of the standard of care.

25 “... ”

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7. Section 2228.1 of the Code states:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), 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.

“... ”

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following applies:

1 (1) The patient is unconscious or otherwise unable to comprehend the
2 disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a
3 guardian or health care surrogate is unavailable to comprehend the disclosure and
4 sign the copy.

5 (2) The visit occurs in an emergency room or an urgent care facility or the visit
6 is unscheduled, including consultations in inpatient facilities.

7 (3) The licensee who will be treating the patient during the visit is not known to
8 the patient until immediately prior to the start of the visit.

9 (4) The licensee does not have a direct treatment relationship with the patient.

10 "..."

11 8. Unprofessional conduct under Business and Professions Code section 2234 is conduct
12 which breaches the rules or ethical code of the medical profession, or conduct which is
13 unbecoming a member in good standing of the medical profession, and which demonstrates an
14 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
15 575.)

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Gross Negligence)**

18 9. Respondent has subjected his Physician's and Surgeon's Certificate No. G 41001 to
19 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
20 the Code, in that he committed gross negligence in his care and treatment of Patient A,¹ as more
21 particularly alleged hereinafter:

22 10. On or about July 1, 2011, Patient A first presented to Respondent.² The reason for
23 the visit was abnormal results from a Pap smear examination³ conducted by another provider.

24 _____
25 ¹ References to "Patient A" are used to protect patient privacy.

26 ² Conduct occurring more than seven (7) years from the filing date of this Accusation is
for informational purposes only and is not alleged as a basis for disciplinary action.

27 ³ A Pap smear is a procedure to test for cervical cancer in women.
28

1 Respondent noted, among other things, that the Pap smear result was "ASCUS"⁴ and "positive
2 HPV."⁵ Respondent advised Patient A to schedule a colposcopy⁶ for evaluation of abnormal Pap
3 smear examination result.

4 11. On or about July 22, 2011, Patient A returned to Respondent for the colposcopy
5 procedure. The colposcopy was completed and the results were "cervical intraepithelial
6 neoplasia"⁷ (CIN I).

7 12. On or about August 5, 2011, Patient A visited Respondent to undergo cryosurgery⁸
8 for CIN I/HPV. Respondent completed this procedure and requested Patient A to return in three
9 (3) months. Patient A called and requested pain medications later in the day. On or about August
10 23, 2011, Patient A called Respondent to inquire about "pink/orange vaginal discharge" but
11 Respondent reassured her that it will go away."

12 13. On or about November 16, 2011, Patient A returned for her three (3) month follow-up
13 visit and a repeat Pap smear examination. Respondent completed a Pap smear examination and
14 noted, among other things, "low grade squamous intraepithelial lesion (LGSIL)."⁹ On or about
15 November 18, 2011, Patient called Respondent inquiring about UTI¹⁰ symptoms. Respondent
16

17 ⁴ ASCUS stands for Atypical Squamous Cells of Undetermined Significance and is a term
18 used to report Pap smear findings. It indicates that some flat (squamous) cells look unusual and
19 may or may not be pre-malignant or malignant.

20 ⁵ HPV stands for human papillomavirus, and it is the most common sexually transmitted
21 infection.

22 ⁶ A colposcopy is a procedure to closely examine a woman's cervix, vagina, and vulva for
23 signs of disease.

24 ⁷ Cervical intraepithelial neoplasia refers to the development of abnormal cells in the
25 narrow neck of a woman's uterus (the cervix).

26 ⁸ Cryosurgery is the use of extreme cold produced by liquid nitrogen or argon gas to
27 destroy abnormal tissues. Cryosurgery is used to treat external tumors, such as those on the skin.

28 ⁹ Low-grade squamous intraepithelial lesion (LGSIL) is a type of pre-cancerous change in
the cervix.

¹⁰ Urinary tract infection (UTI) is an infection in any part of your urinary system such as
kidneys, ureters, bladder or urethra.

1 prescribed Macrobid¹¹ to Patient A.

2 14. On or about December 9, 2011, Patient A visited Respondent for unresolved burning
3 with urination and itching. Patient A's examination showed moderate tenderness in the bladder
4 area. Urinary analysis was positive and cervical and urine cultures were sent. The records stated,
5 among other things, "Cervical cultures neg" and "urine-Ecoli." Respondent provided
6 ciprofloxacin¹² treatment.

7 15. On or about January 20, 2012, Patient A returned to Respondent for a possible
8 vaginal infection and itching. The records showed, among other things, that the speculum
9 examination showed positive for "Clue"¹³ cells and fungal evidence on the wet mount. The
10 records also stated, among other things, "Genital culture confirmed Yeast." Respondent treated
11 Patient with Cleocin¹⁴ vaginal cream and Diflucan.¹⁵

12 16. On or about February 15, 2012, Patient A visited Respondent for a regular pelvic
13 examination. Respondent performed a Pap smear test on Patient A. The records stated, among
14 other things, "PAP result returned LGSIL + HPV." On or about March 7, 2012, Respondent
15 noted Patient A to return in three (3) months for a "repeat PAP [smear test]." On or about April
16 23, 2012, the records stated, among other things, "Patient treated via phone evaluation for UTI
17 with Macrobid on 4/23/12."

18 17. On or about June 11, 2012, Patient A returned to Respondent for a "re PAP." The
19 records noted, among other things, "PAP smear was done – results Neg with fungus."
20 Respondent discussed the option of colposcopy, if the PAP results become abnormal again. On

21 ¹¹ Macrobid (Nitrofurantoin) is an antibiotic, which can be used to treat and prevent
22 urinary tract infections.

23 ¹² Ciprofloxacin is an antibiotic, which can be used to treat infections.

24 ¹³ Clue cells refer to vaginal cells covered with bacteria that are a sign of bacterial
vaginosis. Bacterial vaginosis refers to a type of inflammation caused by the overgrowth of
bacteria naturally found in the vagina, which upsets the natural balance.

25 ¹⁴ Cleocin (Clindamycin) is an antibiotic, which can be used to treat various types of
26 infections, including skin and vaginal infections.

27 ¹⁵ Diflucan (Fluconazole) is an antifungal, which can be used to treat and prevent fungal
28 infections.

1 the Pap results, the notation dated June 20, 2012 indicated treating Patient A with Diflucan. On
2 or about July 31, 2012, Patient A called Respondent complaining of urinary frequency, urgency,
3 and voiding difficulty. Respondent treated Patient A via telephone with Macrobid and indicated
4 that Patient A should follow up with Respondent if there was no improvement.

5 18. On or about September 10, 2012, Patient A returned to Respondent for another "re
6 PAP." Patient A complained of dysuria¹⁶ and irritation. Respondent conducted a urinalysis and
7 gave Patient A Ciprofloxacin. The records noted, among other things, "PAP done – results
8 Neg.;" "Genital culture normal." On or about September 18, 2012, Patient A called Respondent
9 and stated that she still had urinary symptoms. Respondent instructed Patient A to provide
10 another urine sample and provided Ciprofloxacin to Patient A. The records noted, among other
11 things, "Urine culture 9/19/12 E Coli sensitive to Cipro."

12 19. On or about December 17, 2012, Patient A returned to Respondent for another "re
13 PAP." The notes indicated, among other things, "PAP done –results Neg." Respondent
14 instructed Patient A to return in three (3) months.

15 20. On or about March 25, 2013, Patient A visited Respondent for "an annual exam."
16 Respondent performed another Pap smear test on Patient A. The records indicated, among other
17 things, "dysmenorrhea¹⁷ controlled with Motrin.¹⁸" Lungs, heart, abdominals, breasts, exterior,
18 neuro and pelvic examination were normal. The records indicated, among other things, "PAP
19 done –results Neg." Respondent informed Patient A that a Pap smear test is not recommended.
20 The records showed, among other things, "Genital culture normal." Respondent instructed
21 Patient A to follow up in one (1) year.

22 21. On or about April 11, 2016, Patient A returned to Respondent for her "annual
23 examination." Patient A complained of low back pain from her employment. Respondent

24
25 ¹⁶ Dysuria refers to discomfort, pain, or burning when urinating.

26 ¹⁷ Dysmenorrhea refers to menstrual cramps, which are caused by uterine contractions.

27 ¹⁸ Motrin (Ibuprofen) is a non-steroidal anti-inflammatory drug, which can be used to treat
28 fever and mild to severe pain.

1 conducted a physical examination and nothing out of the ordinary was noted. Respondent
2 instructed Patient A to return in one (1) year.

3 22. On or about January 30, 2017, Patient A presented to Respondent with complaints of
4 abnormal vaginal odor. Patient A stated that she has been treated with Flagyl¹⁹ in the past.
5 without relief. Respondent conducted a physical examination of Patient A. After the physical
6 examination, Respondent rubbed Patient A's back, then kissed her on the lips. Patient A
7 protested and attempted to pull away. Respondent then grabbed Patient A's body towards his
8 own and rubbed and/or rocked and/or gyrated his hips against Patient A's groin area, and rubbed
9 his chest against Patient A's breasts, asking, "Doesn't it feel good?"

10 23. Respondent committed gross negligence in his care and treatment of Patient A, which
11 included, but was not limited to, the following:

- 12 (a) Respondent inappropriately kissed and/or touched Patient A.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Repeated Negligent Acts)**

15 24. Respondent has further subjected his Physician's and Surgeon's Certificate No.
16 G 41001 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
17 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
18 treatment of Patient A, as more particularly alleged herein:

- 19 (a) Paragraphs 9 through 23, above, are hereby incorporated by reference
20 and realleged as if fully set forth herein;
- 21 (b) Respondent inappropriately touched and/or kissed Patient A; and
- 22 (c) Respondent ordered excessive and/or unnecessary follow-up Pap smear tests.

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27 _____
28 ¹⁹ Flagyl (Metronidazole) is an antibiotic, which can be used to treat various infections,
including certain types of vaginal infections.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Sexual Misconduct)**

3 25. Respondent has subjected his Physician's and Surgeon's Certificate No. G 41001
4 to disciplinary action under section 726. of the Code, in that he engaged in sexual misconduct
5 with Patient A, as more particularly alleged hereinafter:

6 26. Paragraph 22, above, is hereby incorporated by reference and realleged as if fully
7 set forth herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(General Unprofessional Conduct)**

10 27. Respondent has further subjected his Physician's and Surgeon's Certificate No.
11 G 41001 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
12 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
13 unbecoming to a member in good standing of the medical profession, and which demonstrates an
14 unfitness to practice medicine, as more particularly alleged in paragraphs 9 through 26, above,
15 which are hereby incorporated by reference as if fully set forth herein.

16 **PRAYER**

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

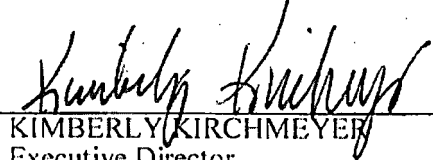
- 19 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 41001,
20 issued to Frank Javier Goicoechea, M.D.;
- 21 2. Revoking, suspending or denying approval of Frank Javier Goicoechea, M.D.'s
22 authority to supervise physician assistants and advanced practice nurses;
- 23 3. Ordering Frank Javier Goicoechea, M.D., if placed on probation, to pay the Board the
24 costs of probation monitoring;
- 25 4. Ordering Frank Javier Goicoechea, M.D., if placed on probation, to provide patient
26 disclosures pursuant to Business and Professions Code section 2228.1; and
- 27 5. Taking such other and further action as deemed necessary and proper.

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DATED:

July 17, 2019



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

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