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

In the Matter of the Accusation Against: Faraz Frank Berjis, M.D. Physician's and Surgeon's Certificate No. A 73092 Respondent.	Case No. 800-2020-067165

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 January 19, 2023.

IT IS SO ORDERED January 12, 2023.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese
Deputy Director

ROB BONTA
Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **FARAZ FRANK BERJIS, M.D.** **100 Iverson Dr.** **Lafayette, CA 94549-3163** **Physician's and Surgeon's Certificate No.** **A 73092** Respondent.	Case No. 800-2020-067165 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Carolyne Evans, Deputy Attorney General.

2. Faraz Frank Berjis, M.D. (Respondent) is represented in this proceeding by attorney Ivan Weinberg, Esq., whose address is: Weinberg Hoffman, LLP, 22 Beverly Terrace, Mill Valley, CA 94941.

3. On September 21, 2000, the Board issued Physician's and Surgeon's Certificate No. A 73092 to Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2020-067165 and will expire on February 29, 2024, unless renewed. Respondent's Certificate is suspended based on an Interim Suspension Order issued by the Board on November 7, 2022.

JURISDICTION

4. Accusation No. 800-2020-067165 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 17, 2022. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2020-067165 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. 800-2020-067165. 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 his 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 him; the right to present evidence and to testify on his 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.

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CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2020-067165, if proven at a hearing, constitute cause for imposing discipline upon his 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 his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his 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 his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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:

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 73092, issued to Respondent Faraz Frank Berjis, 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 against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2020-067165 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $26,187.25 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2020-067165 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Ivan Weinberg, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of

License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12-8-2022

FARAZ FRANK BERJIS, M.D.
Respondent

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

DATED: 12/9/22

IVAN WEINBERG, ESQ.
Attorney for Respondent

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: 12/28/22

Respectfully submitted,

ROB BONTA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

Carolyne Evans

CAROLYNE EVANS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2020-067165

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

In the Matter of the Accusation Against: **Faraz Frank Berjis, M.D.** **100 Iverson Dr.** **Lafayette, CA 94549-3163** **Physician's and Surgeon's Certificate No. A 73092,** Respondent.	Case No. 800-2020-067165 **ACCUSATION**

PARTIES

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

2. On or about September 21, 2000, the Board issued Physician's and Surgeon's Certificate Number A 73092 to Faraz Frank Berjis, 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 February 29, 2024, unless renewed. Respondent's Certificate is suspended based on an Interim Suspension Order issued by the Board on November 7, 2022.

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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 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 Board deems proper.

5. Section 2234 of the Code, in pertinent part, states:

"The board 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.

"(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.

. . .

"(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 726 of the Code states, in pertinent part:

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

7. Section 729 of the Code states, in pertinent part, states:

> (a) Any physician and surgeon who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon has referred the patient or client to an independent and objective physician and surgeon recommended by a third-party physician and surgeon for treatment, is guilty of sexual exploitation by a physician and surgeon.

. . . For purposes of subdivision (a), in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.

(c) For purposes of this section:

(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.

8. In addition to the above provisions, physicians and surgeons adhere to the Code of Medical Ethics promulgated by the American Medical Association, including but not limited to the following principles:

I. A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights.

II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.

. . .

VIII. A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

9. Code of Medical Ethics Opinion 9.1.1 states, in pertinent part:

Romantic or sexual interactions between physicians and patients that occur concurrently with the patient-physician relationship are unethical. Such interactions detract from the goals of the patient-physician relationship and may exploit the vulnerability of the patient, compromise the physician's ability to make objective judgments about the patient's health care, and ultimately be detrimental to the patient's well-being.

A physician must terminate the patient-physician relationship before initiating a dating, romantic, or sexual relationship with a patient.

10. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a licensee who is disciplined based on sexual misconduct to disclose to his patients, information regarding his probation status. The licensee is required to disclose: probation status, the length of the probation, the probation end date, all practice restrictions placed on the license 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 Board's Internet Web site.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

RESPONDENT'S PRACTICE

12. At all times relevant to this Accusation, Respondent practiced as a gastroenterologist at John Muir Health (JMH) hospital in Walnut Creek, California. Respondent also practiced at a group gastroenterology clinic. Respondent is board certified in gastroenterology.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence and/or Repeated Negligence and/or Unprofessional Conduct and/or Sexual Misconduct)

13. In January 2017, Patient A[1] had an initial visit with Respondent for multiple gastrointestinal (GI) complaints. Patient A had a prior gastric bypass bariatric surgery.

14. On June 17, 2019, Patient A saw Respondent because she was experiencing upper abdominal pain. Patient A brought copies of her medical records from Stanford Medical Center and her bariatric surgery medical records. Respondent's staff directed Patient A to see Respondent in a back office.

15. In Respondent's back office, Respondent grabbed Patient A's waist from behind and put his hands around her waistline. Patient A felt Respondent's erect penis positioned between her clothed buttocks. Patient A froze in fear and rejected his advances. No chaperone was present during this visit.

16. Respondent sat down in a chair and asked Patient A to show him exactly where her pain was coming from. As Patient A stood up, Respondent stuck two fingers up Patient A's

[1] Patient A's name is redacted to protect her privacy interests.

shorts and inserted his fingers into her vagina. Respondent made oral contact with Patient A's vagina. Patient A grabbed her purse and ran out of Respondent's office leaving behind her medical records, her driver's license card, and medical insurance card. Despite Patient A's complaints of upper abdominal pain, Respondent did not conduct an appropriate abdominal physical examination to localize Patient A's upper GI symptoms.

17. On November 13, 2019, Patient A returned to Respondent's office to request return of her driver's license card, medical insurance card, and medical records, which she had left behind at his office. Patient A told Respondent's care coordinator that she wanted to have her medical records transferred to another gastroenterologist. When the care coordinator told Respondent that Patient A was asking for her medical records to be transferred to another doctor, Respondent told the care coordinator to bring Patient A back to his personal office.

18. Patient A saw Respondent in his office, and he asked her where her pain was located, and then told her to go to the exam room right across from his office. Patient A reported upper GI complaints. Respondent told Patient A that he would not shut the exam room door. Respondent told Patient A to sit up on the exam table with her knees to her chest and to lay on her side. There was no chaperone during this visit. With the door open, Respondent put on medical gloves, put gel on his fingers, and penetrated Patient A's vagina and anus with his fingers. Respondent moved his fingers in Patient A's vagina in a back and forth motion. Patient A looked back and saw that Respondent was touching his penis with one hand while she could feel his other hand in her vagina and anus. Patient A saw that Respondent had ejaculated on his pants and on Patient A's buttocks. Patient A got up and ran out of Respondent's exam room while crying. Respondent did not document a recto-vaginal (bi-manual) exam in Patient A's medical records.

19. On her way out of Respondent's office, Patient A told Respondent's clinical care coordinator about what Respondent had done to Patient A in the exam room. Patient A called 911 to report that Respondent had sexually assaulted her.

20. Respondent later attempted to bribe Patient A with money, on multiple occasions, so that Patient A would withdraw her police report, and tell them that Respondent did not touch Patient A in a sexual manner. In a conversation recorded by the WCPD, Patient A confronted

Respondent about the incident during the November 2019 visit. Respondent defended his actions, claiming that she could have had stool in her rectum. Patient A reminded Respondent that she told him specifically that she did not have any constipation in November 2019.

21. Respondent is guilty of unprofessional conduct and subject to discipline for violation of Sections 2234 and/or 2234 (b), and/or 2234 (c) and/or 726, and/or 729 of the Code in that he engaged in sexual misconduct with Patient A and exploited Patient A; and conducted a non-medically indicated recto-vaginal exam on Patient A under the guise of conducting a legitimate medical examination. Respondent also violated the standard of care in that he did not conduct an appropriate abdominal physical examination to address Patient A's upper GI symptoms.

SECOND CAUSE FOR DISCIPLINE

(Failure to Participate in Investigative Board Interview)

22. During the investigation, Respondent refused to attend and participate in an interview by the Board.

23. Respondent is guilty of unprofessional conduct and subject to discipline for violation of Section 2234 (g) of the Code in that he failed to participate in a Board interview during the investigation.

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 73092, issued to Faraz Frank Berjis, M.D.;

2. Revoking, suspending or denying approval of Faraz Frank Berjis, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Faraz Frank Berjis, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

4. Ordering Respondent Faraz Frank Berjis, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: NOV 17 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant