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

In the Matter of the First Amended Accusation Against: Sheldon Earl Gingerich, M.D. Physician's and Surgeon's Certificate No. G 53642 Respondent.	Case No. 800-2019-060929

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 26, 2023.

IT IS SO ORDERED January 19, 2023.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese
Deputy Director

ROB BONTA
Attorney General of California
GREG W. CHAMBERS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **SHELDON EARL GINGERICH, M.D.** **2950 N. Santa Rosa Place** **Tucson, AZ 85712** **Physician's and Surgeon's Certificate No. G 53642** Respondent.	Case No. 800-2019-060929 **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 Greg W. Chambers, Supervising Deputy Attorney General.

2. Sheldon Earl Gingerich, M.D. (Respondent) is represented in this proceeding by attorney Susan Brichler Trujillo, whose address is: Quarles & Brady LLP, One Renaissance Square, Two North Central Avenue, Suite 600, Phoenix, AZ 85004-2322.

3. On or about September 24, 1984, the Board issued Physician's and Surgeon's Certificate No. G 53642 to Sheldon Earl Gingerich, M.D. (Respondent). The Physician's and Surgeon's Certificate identified in First Amended Accusation No. 800-2019-060929 expired on June 30, 2020, and has not been renewed.

JURISDICTION

4. First Amended Accusation No. 800-2019-060929 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on November 29, 2022. A copy of First Amended Accusation No. 800-2019-060929 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 First Amended Accusation No. 800-2019-060929. Respondent also has carefully read, fully discussed with his Arizona 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 First Amended 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.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 800-2019-060929, agrees that cause exists for discipline and hereby

surrenders his Physician's and Surgeon's Certificate No. G 53642 for the Board's formal acceptance.

9. 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

10. 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.

11. 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.

12. 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. G 53642, issued to Respondent Sheldon Earl Gingerich, 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 he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement of a revoked certificate in effect at the time the petition is filed. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2019-060929 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. 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 First Amended Accusation, No. 800-2019-060929 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 in its entirety. I fully 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: 1/10/2023

SHELDON EARL GINGERICH, M.D.
Respondent

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I have read and fully discussed with Respondent Sheldon Earl Gingerich, 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: 1/11/2023

SUSAN BRICHLER TRUJILLO
Arizona Counsel 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: _____

Respectfully submitted,

ROB BONTA
Attorney General of California

GREG W. CHAMBERS
Supervising Deputy Attorney General
Attorneys for Complainant

I have read and fully discussed with Respondent Sheldon Earl Gingerich, 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: _____

SUSAN BRICHLER TRUJILLO
Arizona Counsel 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: January 11, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California

Greg W. Chambers

GREG W. CHAMBERS
Supervising Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2019-060929

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BEFORE THE
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In the Matter of the First Amended Accusation Against: **SHELDON EARL GINGERICH, M.D.** **2950 N. Santa Rosa Place** **Tucson, AZ 85712** **Physician's and Surgeon's Certificate No. G 53642,** Respondent.	Case No. 800-2019-060929 **FIRST AMENDED ACCUSATION**

PARTIES

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

2. On or about September 24, 1984, the Medical Board issued Physician's and Surgeon's Certificate Number G 53642 to Sheldon Earl Gingerich, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on June 30, 2020, without being renewed.

JURISDICTION

3. This First Amended 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 2004 of the Code provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. 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.

6. Section 2305 of the Code states:

"The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state."

7. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix

the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

8. Section 2237 of the Code states:

(a) The conviction of a charge of violating any federal statutes or regulations or any statute or regulation of this state, regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered in accordance with Section 2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

9. Section 2238 of the Code states:

A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

10. California Code of Regulations, title 16, section 1360, states:

"For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to

perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Conviction)

11. Respondent Sheldon Earl Gingerich, M.D. is subject to disciplinary action under sections 2234 [unprofessional conduct] and 2236 [conviction] and 2237 [conviction], and 2238 [violation of federal statute] of the Code and California Code of Regulations, title 16, section 1360 [criminal conviction], in that on or about November 1, 2022, Respondent voluntarily entered into a plea agreement with the United States Government in *United States of America v. Sheldon Gingerich*, United States District Court for the District of Arizona, Case No. CR20-02703-TUC-RCC, pleading guilty to the federal misdemeanor offenses of 21 U.S.C. section 844 and 18 U.S.C. section 2, aiding and abetting simple possession of a controlled substance, in this case fentanyl.

12. On November 1, 2022, Respondent was sentenced to two years' probation and fined $75,000.

13. Respondent engaged in unprofessional conduct, pursuant to section 2234 of the Code, by virtue of the fact that Respondent aided and abetted simple possession of a controlled substance – fentanyl – in contravention to federal law, which constitutes unprofessional conduct and cause for discipline pursuant to sections 2234, 2236, 2237, and 2238 of the Code, and title 16, section 1360 of the California Code of Regulations.

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 G 53642, issued to Sheldon Earl Gingerich, M.D.;

2. Revoking, suspending or denying approval of Sheldon Earl Gingerich, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Sheldon Earl Gingerich, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: NOV 29 2022

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