

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

In the Matter of the First Amended
Accusation Against:

HARRY BERNARD KRAM, M.D.

Physician's and Surgeon's
Certificate No. G 52608

Case No.: 800-2020-069845

Respondent.

DECISION

The attached Decision 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 October 12, 2023.

IT IS SO ORDERED: September 12, 2023.

MEDICAL BOARD OF CALIFORNIA



LAURIE LUBIANO, J.D., Chair
Panel A

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
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7

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 800-2020-069845

13 **HARRY BERNARD KRAM, M.D.**
14 **3445 Pacific Coast Highway, #230**
15 **Torrance, CA 90505**

OAH No. 2022060806

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. G 52608,**

Respondent.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
23 of California (Board). He brought this action solely in his official capacity and is represented in
24 this matter by Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith,
25 Deputy Attorney General.

26 2. Harry Bernard Kram, M.D. (Respondent) is represented in this proceeding by
27 attorneys Peter R. Osinoff and Derek F. O'Reilly-Jones, whose address is 355 South Grand
28 Avenue, Suite 1750, Los Angeles, California 90071.

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 800-2020-069845, if proven at a hearing, constitute cause for imposing discipline
4 upon his Physician's and Surgeon's Certificate.

5 10. Respondent does not contest that, at an administrative hearing, Complainant could
6 establish a prima facie case with respect to the charges and allegations in First Amended
7 Accusation No. 800-2020-069845, a true and correct copy of which is attached hereto as Exhibit
8 A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G 52608 to
9 disciplinary action.

10 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
11 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
12 Disciplinary Order below.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Medical Board of California.
15 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
16 Board of California may communicate directly with the Board regarding this stipulation and
17 settlement, without notice to or participation by Respondent or his counsel. By signing the
18 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
19 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
20 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
21 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
22 action between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 13. Respondent agrees that if he ever petitions for early termination or modification of
25 probation, or if an accusation and/or petition to revoke probation is filed against him before the
26 Board, all of the charges and allegations contained in First Amended Accusation No. 800-2020-
27 069845 shall be deemed true, correct and fully admitted by Respondent for purposes of any such
28 proceeding or any other licensing proceeding involving Respondent in the State of California.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
3 signatures thereto, shall have the same force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or opportunity to be heard by Respondent, issue and enter
6 the following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 52608 issued
9 to Respondent Harry Bernard Kram, M.D. is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for three (3) years on the following terms and conditions:

11 1. **EDUCATION COURSE.** Within sixty (60) calendar days of the effective date of this
12 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
13 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)
14 hours per year, for each year of probation. The educational program(s) or course(s) shall be
15 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified.
16 The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition
17 to the Continuing Medical Education (CME) requirements for renewal of licensure. Following
18 the completion of each course, the Board or its designee may administer an examination to test
19 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-
20 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

21 2. **MEDICAL RECORD KEEPING COURSE.** Within sixty (60) calendar days of the
22 effective date of this Decision, Respondent shall enroll in a course in medical record keeping
23 approved in advance by the Board or its designee. Respondent shall provide the approved course
24 provider with any information and documents that the approved course provider may deem
25 pertinent. Respondent shall participate in and successfully complete the classroom component of
26 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
27 successfully complete any other component of the course within one (1) year of enrollment. The
28 medical record keeping course shall be at Respondent's expense and shall be in addition to the

1 Continuing Medical Education (CME) requirements for renewal of licensure.

2 A medical record keeping course taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the course would have
5 been approved by the Board or its designee had the course been taken after the effective date of
6 this Decision.

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee not later than fifteen (15) calendar days after successfully completing the course, or not
9 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

10 3. MONITORING - PRACTICE. Within thirty (30) calendar days of the effective date
11 of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
12 practice monitor, the name and qualifications of one or more licensed physicians and surgeons
13 whose licenses are valid and in good standing, and who are preferably American Board of
14 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
15 personal relationship with Respondent, or other relationship that could reasonably be expected to
16 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
17 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
18 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

19 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
20 and Accusation(s), and a proposed monitoring plan. Within fifteen (15) calendar days of receipt
21 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a
22 signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
23 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
24 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
25 with the signed statement for approval by the Board or its designee.

26 Within sixty (60) calendar days of the effective date of this Decision, and continuing
27 throughout probation, Respondent's practice shall be monitored by the approved monitor.
28 Respondent shall make all records available for immediate inspection and copying on the

1 premises by the monitor at all times during business hours and shall retain the records for the
2 entire term of probation.

3 If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the
4 effective date of this Decision, Respondent shall receive a notification from the Board or its
5 designee to cease the practice of medicine within three (3) calendar days after being so notified.
6 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring
7 responsibility.

8 The monitor shall submit a quarterly written report to the Board or its designee which
9 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
10 are within the standards of practice of medicine, and whether Respondent is practicing medicine
11 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
12 that the monitor submits the quarterly written reports to the Board or its designee within ten (10)
13 calendar days after the end of the preceding quarter.

14 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
15 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
16 the name and qualifications of a replacement monitor who will be assuming that responsibility
17 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
18 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent
19 shall receive a notification from the Board or its designee to cease the practice of medicine within
20 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine
21 until a replacement monitor is approved and assumes monitoring responsibility.

22 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
23 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
24 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
25 extended to Respondent, at any other facility where Respondent engages in the practice of
26 medicine, including all physician and locum tenens registries or other similar agencies, and to the
27 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
28 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within

1 fifteen (15) calendar days.

2 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

3 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
4 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
5 advanced practice nurses.

6 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
7 governing the practice of medicine in California and remain in full compliance with any court
8 ordered criminal probation, payments, and other orders.

9 7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
10 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
11 \$13,600.00 (thirteen thousand six hundred dollars and no cents). Costs shall be payable to the
12 Medical Board of California. Failure to pay such costs shall be considered a violation of
13 probation.

14 Payment must be made in full within thirty (30) calendar days of the effective date of the
15 Order, or by a payment plan approved by the Medical Board of California. Any and all requests
16 for a payment plan shall be submitted in writing by Respondent to the Board. Failure to comply
17 with the payment plan shall be considered a violation of probation.

18 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
19 to repay investigation and enforcement costs.

20 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
21 under penalty of perjury on forms provided by the Board, stating whether there has been
22 compliance with all the conditions of probation.

23 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
24 of the preceding quarter.

25 9. GENERAL PROBATION REQUIREMENTS.

26 Compliance with Probation Unit

27 Respondent shall comply with the Board's probation unit.

28 ///

1 Address Changes

2 Respondent shall, at all times, keep the Board informed of Respondent's business and
3 residence addresses, email address (if available), and telephone number. Changes of such
4 addresses shall be immediately communicated in writing to the Board or its designee. Under no
5 circumstances shall a post office box serve as an address of record, except as allowed by Business
6 and Professions Code section 2021, subdivision (b).

7 Place of Practice

8 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
9 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
10 facility.

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

15 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
16 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
17 (30) calendar days.

18 In the event Respondent should leave the State of California to reside or to practice
19 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
20 dates of departure and return.

21 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
22 available in person upon request for interviews either at Respondent's place of business or at the
23 probation unit office, with or without prior notice throughout the term of probation.

24 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
26 more than 30 calendar days and within fifteen (15) calendar days of Respondent's return to
27 practice. Non-practice is defined as any period of time Respondent is not practicing medicine as
28 defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a

1 calendar month in direct patient care, clinical activity or teaching, or other activity as approved by
2 the Board. If Respondent resides in California and is considered to be in non-practice,
3 Respondent shall comply with all terms and conditions of probation. All time spent in an
4 intensive training program which has been approved by the Board or its designee shall not be
5 considered non-practice and does not relieve Respondent from complying with all the terms and
6 conditions of probation. Practicing medicine in another state of the United States or Federal
7 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
8 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
9 considered as a period of non-practice.

10 In the event Respondent's period of non-practice while on probation exceeds eighteen (18)
11 calendar months, Respondent shall successfully complete the Federation of State Medical Boards'
12 Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment
13 program that meets the criteria of Condition 18 of the current version of the Board's "Manual of
14 Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of
15 medicine.

16 Respondent's period of non-practice while on probation shall not exceed two (2) years.

17 Periods of non-practice will not apply to the reduction of the probationary term.

18 Periods of non-practice for a Respondent residing outside of California will relieve
19 Respondent of the responsibility to comply with the probationary terms and conditions with the
20 exception of this condition and the following terms and conditions of probation: Obey All Laws;
21 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
22 Controlled Substances; and Biological Fluid Testing.

23 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
24 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar
25 days prior to the completion of probation. This term does not include cost recovery, which is due
26 within thirty (30) calendar days of the effective date of the Order, or by a payment plan approved
27 by the Medical Board and timely satisfied. Upon successful completion of probation,
28 Respondent's certificate shall be fully restored.

1 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
2 of probation is a violation of probation. If Respondent violates probation in any respect, the
3 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
4 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
5 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
6 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
7 be extended until the matter is final.

8 14. LICENSE SURRENDER. Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request to surrender his or her license.
11 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
12 determining whether or not to grant the request, or to take any other action deemed appropriate
13 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
14 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
15 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
16 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
17 application shall be treated as a petition for reinstatement of a revoked certificate.

18 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
19 with probation monitoring each and every year of probation, as designated by the Board, which
20 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
21 California and delivered to the Board or its designee no later than January 31 of each calendar
22 year.

23 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
24 a new license or certification, or petition for reinstatement of a license, by any other health care
25 licensing action agency in the State of California, all of the charges and allegations contained in
26 First Amended Accusation No. 800-2020-069845 shall be deemed to be true, correct, and
27 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
28 seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

5/01/2023


HARRY BERNARD KRAM, M.D.
Respondent

I have read and fully discussed with Respondent Harry Bernard Kram, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

5/1/2023


DEREK F. O'REILLY-JONES
PETER R. OSINOFF
Attorneys for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED:

May 1, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General


REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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8 **BEFORE THE**
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11 In the Matter of the First Amended Accusation
Against:

Case No. 800-2020-069845

12 **HARRY BERNARD KRAM, M.D.**
13 **3445 Pacific Coast Highway, # 230**
Torrance, CA 90505

FIRST AMENDED
ACCUSATION

14 **Physician's and Surgeon's Certificate**
15 **No. G 52608,**

Respondent.

16
17 **PARTIES**

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

21 2. On or about June 25, 1984, the Board issued Physician's and Surgeon's Certificate
22 Number G 52608 to Harry Bernard Kram, M.D. (Respondent). The Physician's and Surgeon's
23 Certificate was in full force and effect at all times relevant to the charges brought herein and will
24 expire on June 30, 2022, unless renewed.

25 **JURISDICTION**

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

1 STATUTORY PROVISIONS

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

6 5. Section 2234 of the Code, states:

7 The board shall take action against any licensee who is charged with
8 unprofessional conduct. In addition to other provisions of this article, unprofessional
9 conduct includes, but is not limited to, the following:

10 (a) Violating or attempting to violate, directly or indirectly, assisting in or
11 abetting the violation of, or conspiring to violate any provision of this chapter.

12 (b) Gross negligence.

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

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

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

25 (d) Incompetence.

26 (e) The commission of any act involving dishonesty or corruption that is
27 substantially related to the qualifications, functions, or duties of a physician and
28 surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(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 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate
records relating to the provision of services to their patients constitutes unprofessional
conduct.

///

COST RECOVERY

7. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may 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.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in

1 that board's licensing act provides for recovery of costs in an administrative
2 disciplinary proceeding.

3 **FACTUAL ALLEGATIONS**

4 Patient 1:¹

5 8. In June of 2018, Patient 1, a 36-year-old woman was referred for evaluation of a
6 newly found mole on her back, by her general practitioner to a dermatologist, who completed an
7 excisional biopsy of the mole. The pathology report described the excised mass as measuring 0.6
8 x 0.4 x 0.1 cm and consistent with basal cell carcinoma, infundibulocystic type, with the lesion
9 extending to the inked dep edge (base) of the specimen. As a result of these findings, the
10 dermatologist referred Patient 1 to a surgeon for evaluation.

11 9. On March 18, 2019, Respondent performed an initial evaluation of Patient 1. He
12 recommended surgical excision of the basal cell carcinoma on her back with the purpose of
13 removing any residual cancer that might exist. Respondent saw Patient 1 one more time prior to
14 surgery, and explained to her that the surgery would be minor and scheduled the surgery.

15 10. On April 12, 2019, Respondent performed a surgical radical excision of the site with
16 bilateral subcutaneous advancement flaps and a complex wound closure. In his operative note,
17 Respondent stated that a "large elliptical incision was drawn around the previously biopsied basal
18 cell carcinoma with at least 2 cm margins circumferentially." He closed the wound in layers and
19 he used a row of 2-0 nylon sutures to close the skin. The size of the specimen removed was
20 described as measuring 5.2 cm from medial to lateral, 3 cm from superior-inferior, and 1.2 cm in
21 thickness. The area where the previous mole had been was reported as 0.5 x 0.4 cm. Finally, the
22 lesion measured 0.7 cm from the nearest margin which is the inferior edge as marked by
23 Respondent.

24 11. On April 15, 2019, Patient 1 saw her wound for the first time after surgery when her
25 husband removed the bandage. She was surprised by the size of her incision.

26 12. On April 30, 2019 (18 days after the operation), at her first post-operative
27 appointment with Respondent, Patient 1 expressed her dismay to him. She stated that she would

28 ¹ The patient's identity is known to Respondent. Numbers used in lieu of the patient names in
order to address privacy concerns.

1 have declined the procedure had Respondent adequately described his proposed plan prior to the
2 procedure. Pathology was reviewed and she was told to return in 4-6 weeks. However, her
3 sutures were kept in place.

4 13. On May 28, 2019 (approximately seven weeks after her surgery), Patient 1's sutures
5 were removed.

6 Patient 2:

7 14. On December 4, 2017, Respondent treated Patient 2, a 63-year-old woman at St.
8 Vincent's Medical Center by performing vascular surgery on her, including the placement of
9 venous stents. After the surgery, Patient 2 complained about right leg numbness and an inability
10 to walk. Thereafter, a stent was located in Patient 2's spinal canal. On December 9, 2017, the
11 venous stents were removed, but the patient continued to suffer from long-term complications of
12 pain and weakness in the right lower extremity. She described numbness and burning in her right
13 leg and foot. She underwent physical therapy and suffered prolonged hospitalizations.
14 Eventually she was discharged home on February 1, 2018. Thereafter, over the next two years,
15 Patient 2 continued to see a neurologist and two neurosurgeons for her continued right leg
16 weakness/numbness and ongoing inability to walk. She has numbness in the left knee and leg,
17 but can move the left leg without pain. The patient requires a walker to ambulate and at times
18 uses a wheelchair.

19 15. By way of background, Patient 2's past medical history included elevated Factor VIII,
20 stage IIB endometrial adenocarcinoma status post-total abdominal hysterectomy with bilateral
21 salpingo-oophorectomy in 2012, gastritis, hiatal hernia, schizophrenia, and varicose veins and
22 lymphedema in her lower extremities with prior episodes of deep vein thrombosis (DVT). In
23 November of 2017, Patient 2 suffered from left lower extremity edema and left malleolus
24 ulceration. The wound was been treated with Clindamycin following an Emergency Room visit
25 and was found to have no recurrent acute DVT.

26 16. In October of 2017, Respondent first saw Patient 2 at his Torrance, California office.
27 Respondent recommended that she undergo a procedure to surgically (angioplasty) implant stents
28 in her legs, which would heal her wound. He failed to adequately assess the patient and explain

1 the possible risks or complications of the procedure. Respondent also ordered an ultrasound of
2 her legs.

3 17. On December 4, 2017, Respondent performed an elective vascular surgery on Patient
4 2; she underwent a venogram of the left lower extremity and "left iliac vein angioplasty and
5 stenting (16 x 90, 14 x 40, and 16 x 60 mm)." Patient 2's written physician instructions directed
6 that she be discharged on post-operative day one "once stable." The hospital nursing staff charted
7 that there were direct orders to send the patient home.

8 18. On December 5, 2017, when a nurse assessed Patient 2 in the morning, the patient
9 complained of weakness and an inability to walk. The nursing staff at the hospital made more
10 than three unsuccessful attempts to reach Respondent in the morning. Eventually, when a nurse
11 spoke to Respondent, he told her to call Dr. B. Upon contacting Dr. B., Dr. B. told the nurse that
12 Dr. B did not know anything about the patient. Thereafter, the nurse attempted to call another
13 physician, Dr. L., without success. Patient 2 also called Respondent's office about her complaints
14 that her right leg felt numb and that she could not feel her extremity. Respondent eventually saw
15 Patient 2 around 20:30 hours and ordered an arterial and venous duplex ultrasound. The patient
16 was admitted to the hospital and provided with pain medications.

17 19. On December 6, 2017, Patient 2 underwent a venous duplex ultrasound of the right
18 lower extremity which did not reveal any deep venous thrombosis. A right lower extremity
19 arterial duplex ultrasound revealed calcified arteries in the right lower extremity.

20 20. On December 8, 2017, Patient 2 underwent a computerized tomography (CT) scan
21 which revealed a "venous stent in the left external iliac artery extending cephalad, entering the
22 spinal canal through the left anterior foramen at the S1 level and extending into the spinal canal
23 mostly on the right side, extending as high as mid L3 body."

24 21. On December 9, 2017, Patient 2 underwent an ultrasound guided procedure which
25 removed her three iliac vein stents via the left common femoral vein and included a venogram of
26 the patient's inferior vena cava and left lower extremity.

27 22. On December 12, 2017, a neurologist assessed Patient 2's right lower extremity
28 weakness as well as her pain in the distribution of the femoral nerve or upper lumbar root area.

1 His differential diagnosis included upper lumbar radiculopathy versus the possibility of femoral
2 nerve compression.

3 23. On December 14, 2017, Patient 2 underwent a magnetic resonance imaging (MRI)
4 which revealed a "large collection consistent with a hematoma along the left pelvic sidewall as
5 described [and that] post-procedural changes seen along the left S1 root an epidural vein as noted
6 [and that the] left common iliac vein is poorly or nonopacified." Patient 2 underwent physical
7 therapy and saw a neurologist during this hospitalization. Respondent also wrote brief notes
8 stating that she was getting stronger.

9 24. On December 17, 2017, Patient 2 underwent another MRI which revealed the
10 following: "The intraspinal structure extending from S1-L3 with increased signal intensities as
11 noted is identified. Etiology is uncertain but most likely candidate is a hematoma, possibly
12 intravenous thrombus." Thereafter, she was hospitalized, and transferred to the acute rehab unit
13 of St. Vincent's Medical Center on December 21, 2017. Thereafter, the patient continued to
14 receive medical treatment to address her complications after her surgery by Respondent.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Gross Negligence in the Care and Treatment of Patient 2)**

17 25. Respondent is subject to disciplinary action under section 2234, subdivision (b), in
18 that he committed gross negligence in the care and treatment of Patient 2. Complainant refers to
19 and, by this reference incorporates herein, paragraphs 14 through 24, above, as though fully set
20 forth therein. The circumstances are as follows:

21 26. On or about December 4, 2017 and thereafter, Respondent committed gross
22 negligence in connection with his care and treatment of Patient 2 when he failed to timely
23 recognize and diagnose the incorrectly deployed stent in Patient 2's spinal column. Respondent
24 delayed in treating Patient 2's post-operative complications (the patient's inability to walk and
25 right leg numbness on post-operative day one). An inability to walk and right leg numbness are
26 unusual complications following a venogram and iliac stenting. The standard of care promptly
27 obtaining imaging studies if a diagnosis could not be otherwise confirmed. The CT of the
28 patient's abdomen and pelvis, which revealed the mis-deployed stent in the spinal canal, did not

1 occur until four days after the procedure. Had Respondent promptly addressed the patient's
2 complications, the risk of nerve damage and subsequent hematoma in the spinal canal could have
3 possibly been avoided or reduced.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Repeated Negligent Acts and/or Incompetence in**
6 **the Care and Treatment of Patients 1 and 2)**

7 27. Respondent is subject to disciplinary action under section 2234, subdivisions (c) and
8 (d), in that he committed repeated negligent acts and/or incompetence in the care and treatment of
9 Patients 1 and 2. Complainant refers to and, by this reference incorporates herein, paragraphs 8
10 through 26, above, as though fully set forth therein. The circumstances are as follows:

11 **Patient 1.**

12 28. On or about April 12, 2019 and thereafter, Respondent committed the following
13 repeated negligent acts and/or incompetence in connection with his care and treatment of
14 Patient 1:

15 (a) Respondent failed to obtain an adequate informed consent from Patient 1
16 regarding her surgery, including, in respect to the size of the incision, the risks, benefits, or
17 alternatives to surgery, and/or failed to adequately document such informed consent.

18 (b) Respondent's failed to adequately perform surgery on Patient 1, including as
19 exhibited by his surgical technique for the excision of the basal cell carcinoma from Patient 1.
20 The size of the excision Respondent performed on Patient 1 is beyond the extent of the margins
21 required by the standard of care for treatment of the basal cell carcinoma.

22 (c) Respondent failed to adequately manage and/or care for Patient 1's wound from
23 the surgery. He failed to remove the sutures used to close this type of wound in Patient 1 in a
24 timely fashion to prevent undue scarring and favorable cosmetic results.

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1 Patient 2.

2 29. On or about December 4, 2014 and thereafter, Respondent committed the following
3 repeated negligent acts and/or incompetence in connection with his care and treatment of
4 Patient 2:

5 (a) Respondent failed to adequately assess Patient 2 and address her condition
6 and/or failed to accurately and/or adequately document his care and treatment for Patient 2. The
7 standard of care requires legible documentation setting forth significant medical conditions,
8 working diagnoses, physical examination, and treatment plans. Respondent's medical record
9 keeping during Patient 2's hospitalization at St. Vincent's Medical Center is almost illegible. In
10 addition, Respondent's record keeping after he saw her post-operatively failed to adequately
11 describe his assessment of her condition and his treatment plan, other than ordering studies,
12 which were performed over the next several days.

13 (b) Respondent failed to adequately respond to nursing and medical staff at the
14 hospital where Patient 2 was recovering after he performed surgery on her, and address
15 Patient 2's post-operative complication (including when the patient expressed unusual sensations
16 following the surgery). The standard of care requires that the patient's physician, or another
17 designated physician, be available to respond to nurses caring for the patient. Nursing staff at the
18 hospital could not reach Respondent nearly 11 hours after Respondent performed surgery on the
19 patient (and could not obtain updated orders to address Patient 2's post-operative complications).

20 (c) Respondent committed negligence and/or incompetence by exhibiting a poor
21 understanding of venous anatomy and stenting of veins that were not iliac veins. At the time
22 Respondent performed a venogram on Patient 2 on December 4, 2017, he failed to ensure that he
23 was in the iliac vein and he failed to ensure that the vein was opened enough to accommodate a
24 stent, with the understanding that a stent in an occluded vein would not remain open. Respondent
25 failed to confirm the patency of the stents, either intraoperatively or post-operatively.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Medical Records for Patients 1 and 2)**

3 30. Respondent is subject to disciplinary action under Code section 2266, in that he failed
4 to maintain adequate and accurate records related to the provision of medical services to Patients
5 1 and 2. The circumstances are as follows:

6 31. The allegations of the First and Second Causes for Discipline are incorporated herein
7 by reference as if fully set forth.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(General Unprofessional Conduct as to Patients 1 and 2)**

10 32. Respondent is subject to disciplinary action under Code section 2234, in that his
11 actions and/or omissions represent unprofessional conduct, generally. The circumstances are as
12 follows:

13 33. The allegations of the First, Second and Third Causes for Discipline, inclusive, are
14 incorporated herein by reference as if fully set forth.

15 **DISCIPLINARY CONSIDERATIONS**

16 34. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges that effective on or about June 3, 2016, in a prior disciplinary action titled *In*
18 *the Matter of the Accusation Against Harry Bernard Kram, M.D.* before the Medical Board of
19 California, in Case Number 17-2012-227250, Respondent's license was publicly reprovved in
20 connection with his failure to document an informed consent for a patient's vascular surgery.
21 That decision is now final and is incorporated by reference as if fully set forth herein.

22 **PRAYER**

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

25 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 52608,
26 issued to Respondent Harry Bernard Kram, M.D.;

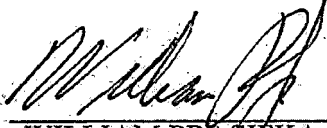
27 2. Revoking, suspending or denying approval of Respondent Harry Bernard Kram,
28 M.D.'s authority to supervise physician assistants and advanced practice nurses;

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3. Ordering Respondent Harry Bernard Kram, 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; and

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

DATED: JUN 09 2022



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

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