

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

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

GEORGE RANDOLPH KUNHARDT, M.D.

**Physician's and Surgeon's
Certificate No. C 40625**

Respondent.

Case No. 800-2020-063582

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 November 6, 2023.

IT IS SO ORDERED October 30, 2023.

MEDICAL BOARD OF CALIFORNIA



**Reji Varghese,
Executive Director**

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINE FRIAR WALTON
Deputy Attorney General
4 State Bar No. 228421
Department of Justice
5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 269-6472
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2020-063582

13 **GEORGE RANDOLPH KUNHARDT, M.D.**
14 **3262 Aster Avenue**
San Luis Obispo, CA 93401-7856

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate**
16 **No. C 40625,**

17 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 Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Christine Friar Walton,
25 Deputy Attorney General.

26 2. Respondent George Randolph Kunhardt, M.D. (Respondent) is represented in this
27 proceeding by attorneys Peter R. Osinoff and Derek F. O'Reilly-Jones, of Bonne Bridges Mueller
28 O'Keefe & Nichols, located at 355 South Grand Ave., Suite 1750, Los Angeles, CA 90071-1562.

1 3. On August 9, 1982, the Board issued Physician's and Surgeon's Certificate No. C
2 40625 to Respondent. That Physician's and Surgeon's Certificate was in full force and effect at
3 all times relevant to the charges brought in Accusation No. 800-2020-063582 and will expire on
4 November 30, 2023, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2020-063582 was filed before the Board on January 9, 2023, and
7 is currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent. Respondent timely filed his Notice of Defense
9 contesting the Accusation. A copy of Accusation No. 800-2020-063582 is attached as Exhibit A
10 and incorporated by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 800-2020-063582. Respondent also has carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
15 and Order.

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

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

24 **CULPABILITY**

25 8. Respondent understands that the charges and allegations in Accusation No. 800-2020-
26 063582, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
27 Surgeon's Certificate.

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1 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
2 Director and/or the Board may receive oral and written communications from its staff and/or the
3 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
4 Executive Director, the Board, any member thereof, and/or any other person from future
5 participation in this or any other matter affecting or involving respondent. In the event that the
6 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this
7 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
8 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
9 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
10 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
11 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
12 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
13 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
14 of any matter or matters related hereto.

15 **ADDITIONAL PROVISIONS**

16 15. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
17 herein to be an integrated writing representing the complete, final and exclusive embodiment of
18 the agreements of the parties in the above-entitled matter.

19 16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
20 Order, including copies of the signatures of the parties, may be used in lieu of original documents
21 and signatures and, further, that such copies shall have the same force and effect as originals.

22 17. In consideration of the foregoing admissions and stipulations, the parties agree the
23 Executive Director of the Board may, without further notice to or opportunity to be heard by
24 Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

25 **ORDER**

26 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 40625, issued
27 to Respondent George Randolph Kunhardt, M.D., is surrendered and accepted by the Board.

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1 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
2 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
3 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
4 of Respondent's license history with the Board.

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

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

9 4. If Respondent ever files an application for licensure or a petition for reinstatement in
10 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
11 comply with all the laws, regulations and procedures for reinstatement of a revoked or
12 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
13 contained in Accusation No. 800-2020-063582 shall be deemed to be true, correct and admitted
14 by Respondent when the Board determines whether to grant or deny the petition.

15 5. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$22,473.50 prior to issuance of a new or reinstated license.

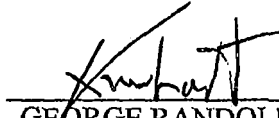
17 6. If Respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation No. 800-2020-063582 shall
20 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
21 Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorneys, Peter R. Osinoff and Derek F. O'Reilly-Jones. 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: 10/10/2023 _____

GEORGE RANDOLPH KUNHARDT, M.D.
Respondent

I have read and fully discussed with Respondent George Randolph Kunhardt, 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: 10/14/2023 _____

PETER R. OSINOFF, ESQ.
DEREK F. O'REILLY-JONES, ESQ.
Attorneys 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: October 16, 2023 _____
Respectfully submitted,
ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General
Christine Friar Walton
CHRISTINE FRIAR WALTON
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2020-063582

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 State Bar No. 155307
300 South Spring Street, Suite 1702
4 Los Angeles, CA 90013
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5 Facsimile: (916) 731-2117
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 800-2020-063582

12 **George Randolph Kunhardt, M.D.**
13 **3262 Aster Avenue**
San Luis Obispo, CA 93401-7856

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. C 40625,**

Respondent.

16
17 **PARTIES**

18 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
19 the Deputy Director of the Medical Board of California, Department of Consumer Affairs
20 (Board).

21 2. On or about August 9, 1982, the Medical Board issued Physician's and Surgeon's
22 Certificate Number C 40625 to George Randolph Kunhardt, M.D. (Respondent). The Physician's
23 and Surgeon's Certificate will expire on November 30, 2023, unless renewed.

24 **JURISDICTION**

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

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4. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

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.

STATUTORY PROVISIONS

6. Section 2234 of the Code, 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.

(1) An initial negligent diagnosis followed by an act or omission medically

1 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

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

5 (d) Incompetence.

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

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

9 (g) The failure by a certificate holder, in the absence of good cause, to attend
10 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.

11 COST RECOVERY

12 7. Section 125.3 of the Code provides:

13 (a) Except as otherwise provided by law, in any order issued in resolution of a
14 disciplinary proceeding before any board within the department or before the
15 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
16 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.

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

19 (c) A certified copy of the actual costs, or a good faith estimate of costs where
20 actual costs are not available, signed by the entity bringing the proceeding or its
21 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.

22 (d) The administrative law judge shall make a proposed finding of the amount
23 of reasonable costs of investigation and prosecution of the case when requested
24 pursuant to subdivision (a). The finding of the administrative law judge with regard
25 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).

26 (e) If an order for recovery of costs is made and timely payment is not made as
27 directed in the board's decision, the board may enforce the order for repayment in any
28 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.

1 (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.

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

4 (2) Notwithstanding paragraph (1), the board may, in its discretion,
5 conditionally renew or reinstate for a maximum of one year the license of any
6 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.

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

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

11 (j) This section does not apply to any board if a specific statutory provision in
12 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

13 FACTUAL ALLEGATIONS

14 8. Respondent is currently retired. He previously practiced as a board certified
15 obstetrician and gynecologist at Sierra Vista Regional Medical Center and Community Health
16 Centers.

17 9. On or about March 28, 2017, Respondent entered into a three-year behavior
18 agreement with the Medical Executive Committee (MEC) of Sierra Vista Regional Medical
19 Center wherein he agreed to also take the Physician Assessment and Clinical Education (PACE)
20 Boundaries Program at the University of California, San Diego-School of Medicine. The
21 behavior agreement was prompted because some of the nurses in the Labor and Delivery
22 department complained that Respondent touched them on their back or hugged them (the
23 touching was unwanted and uninvited and made the nurses feel uncomfortable) or made
24 inappropriate and unwelcomed comments. Respondent admitted that he had issues with
25 boundaries.

26 10. Terms of the three-year behavior agreement included that an initial violation of the
27 agreement would result in a one week suspension of Respondent's staff privileges and a second
28 violation would result in a two week suspension of his staff privileges. A third and final violation

1 would result in suspension of Respondent's staff privileges. If Respondent's conduct was found
2 to sustain the final violation, his staff membership would be terminated. The three-year behavior
3 agreement was considered rehabilitative by the hospital and not punitive action.

4 **First Violation**

5 11. On or about February 8, 2018, Respondent interrupted a conversation between Nurse
6 S. and a physician, Dr. K.¹ Respondent told Dr. K., "you know Nurse S. is my wife?" Nurse S.,
7 who has the same first name as Respondent's wife, stated, "I told you to stop saying that. If
8 anything, Dr. K. is my work-husband." Respondent replied, "Oh, a menage a trois?" Nurse S.
9 was offended by the remark and reported Respondent to her chain-of-command, which made its
10 way to the MEC. Although Respondent apologized, he was suspended for one week.

11 **Second Violation**

12 12. On or about January 1, 2019, Respondent encountered Lactation Consultant S. sitting
13 at a desk with her back to the door. To get Lactation Consultant S.'s attention, Respondent,
14 stroked her back, from the mid-back, up and down. Lactation Consultant S. was offended, told
15 Respondent that his unwanted touching was inappropriate, and he apologized. Lactation
16 Consultant S. filed an online complaint with Human Resources. The MEC suspended
17 Respondent for two weeks.

18 **Third Violation**

19 13. On or about December 20, 2019, Respondent allegedly touched the back of a nurse
20 and stated that he wanted to be reported for sexual harassment and fired. In response to the
21 MEC's request to meet and discuss the incident, Respondent resigned his staff privileges effective
22 January 1, 2020.

23 **CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 14. Respondent George Randolph Kunhardt, M.D. is subject to disciplinary action under
26 sections 2227, 2234, and 2234, subdivision (a), of the Code, in that Respondent engaged in
27 disruptive behavior and conduct that breached the rules or ethical code of the medical profession

28 ¹ The individuals in this Accusation are identified by first initial to protect their privacy.

1 and/or which was unbecoming of a member in good standing of the medical profession, and
2 which demonstrates an unfitness to practice medicine. The circumstances are as follows:

3 15. The facts and allegations set forth in Paragraphs 8 through 13 are incorporated by
4 reference as if fully set forth.

5 ***Disruptive Behavior and Language***

6 16. Disruptive behavior is a patient safety issue. The physician is the captain of the ship
7 in the Labor and Delivery Department of the hospital and is expected to set the tone for the team
8 and lead the group in professionalism, regardless of the challenges faced in the Department.
9 When a physician's disruptive behavior and language cause staff to feel sexually harassed or feel
10 constantly demeaned by the physician, staff may be reluctant to work with the physician and
11 errors can occur as the staff will not speak up when an imminent problem is recognized. The
12 disruptive behavior and language demonstrated by Respondent is conduct unbecoming of a
13 physician and an extreme departure from the standards of behavior expected from a physician.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Gross Negligence)**

16 17. Respondent George Randolph Kunhardt, M.D. is subject to disciplinary action under
17 section 2234, subdivision (b), of the Code, in that Respondent's disruptive behavior and sexual
18 harassment of staff, as set forth above, was grossly negligent. The circumstances are as follows:

19 18. The facts and allegations set forth in the First Cause for Discipline are incorporated
20 by reference as if fully set forth.

21 19. Each of the alleged acts of unprofessional conduct set forth in the First Cause for
22 Discipline, above, is also a grossly negligent act.

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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 C 40625, issued to George Randolph Kunhardt, M.D.;

2. Revoking, suspending or denying approval of George Randolph Kunhardt, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering George Randolph Kunhardt, 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: 1/9/2023 _____

Judith T. Alvarado for
REJI VARGHESE
Deputy Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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