

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

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

**Bohdan Theodore Olesnicky, M.D.**

**Physician's and Surgeon's  
Certificate No. C 53051**

**Respondent.**

**Case No. 800-2021-079828**

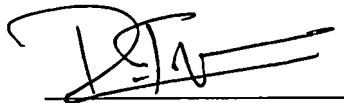
**DECISION**

**The attached Stipulated Surrender of License and Disciplinary 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 December 5, 2023.**

**IT IS SO ORDERED November 28, 2023.**

**MEDICAL BOARD OF CALIFORNIA**



**Reji Varghese  
Executive Director**

1 ROB BONTA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 KAROLYN M. WESTFALL  
Deputy Attorney General  
4 State Bar No. 234540  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the First Amended Accusation  
14 Against:

15 **BOHDAN THEODORE OLESNICKY, M.D.**  
16 **P.O. Box 2746**  
**Key West, FL 33045-2746**

17 **Physician's and Surgeon's Certificate**  
**No. C 53051,**

18 Respondent.

Case No. 800-2021-079828

OAH No. 2022100117

15 **STIPULATED SURRENDER OF**  
16 **LICENSE AND DISCIPLINARY ORDER**

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

22 **PARTIES**

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

27 ///

28 ///

2. Bohan Theodore Olesnicky, M.D. (Respondent) is represented in this proceeding by attorney Jeffrey G. Keane, Esq., whose address is: 74770 Highway 111, Suite 201, Indian Wells, CA 92210.

3. On or about November 3, 2007, the Board issued Physician's and Surgeon's Certificate No. C 53051 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2021-079828 and will expire on June 30, 2025, unless renewed.

## JURISDICTION

4. First Amended Accusation No. 800-2021-079828, which superseded the Accusation filed on September 6, 2022, 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 May 25, 2023. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 800-2021-079828 is attached hereto 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. 800-2021-079828. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary 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. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 8. Respondent admits that, at an administrative hearing, Complainant could establish a  
3 *prima facie* case with respect to the charges and allegations contained in First Amended  
4 Accusation No. 800-2021-079828, and agrees that he has thereby subjected his Physician's and  
5 Surgeon's Certificate No. C 53051 to discipline, and hereby surrenders his Physician's and  
6 Surgeon's Certificate No. C 53051 for the Board's formal acceptance.

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

10 **RESERVATION**

11 10. The admissions made by Respondent herein are only for the purposes of this  
12 proceeding, or any other proceedings in which the Board or other professional licensing agency is  
13 involved, and shall not be admissible in any other criminal or civil proceeding.

14 **CONTINGENCY**

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

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

26 13. The parties agree that this Stipulated Surrender of License and Disciplinary Order  
27 shall be null and void and not binding upon the parties unless approved and adopted by the  
28 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full

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

#### 16 **ADDITIONAL PROVISIONS**

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

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

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

26 ///

27 ///

28 ///

**ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 53051, issued to Respondent Bohan Theodore Olesnick, 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 First Amended Accusation No. 800-2021-079828 shall be deemed to be true, correct and fully 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 \$85,281.00 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 First Amended Accusation, No. 800-2021-079828 shall be deemed to be true, correct, and fully admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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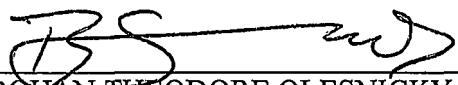
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1 ACCEPTANCE


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

7  
8 DATED: November 3, 2023

  
9 BOHAN THEODORE OLESNICKY, M.D.  
Respondent

10 I have read and fully discussed with Respondent Bohan Theodore Olesnicky, M.D., the  
11 terms and conditions and other matters contained in this Stipulated Surrender of License and  
12 Disciplinary Order. I approve its form and content.

13  
14 DATED: 11.6.23

  
15 JEFFREY G. KEANE, ESQ.  
Attorney for Respondent

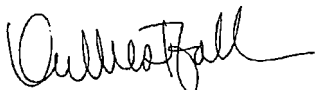
16  
17 ENDORSEMENT

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

21 DATED: 11/6/23

Respectfully submitted,

22 ROB BONTA  
23 Attorney General of California  
24 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General

25   
26 KAROLYN M. WESTFALL  
27 Deputy Attorney General  
Attorneys for Complainant

28 SD2022802042  
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**Exhibit A**

**First Amended Accusation No. 800-2021-079828**



1 ROB BONTA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 KAROLYN M. WESTFALL  
Deputy Attorney General  
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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

13 In the Matter of the First Amended Accusation  
14 Against:

Case No. 800-2021-079828

**FIRST AMENDED ACCUSATION**

15 **BOHDAN THEODORE OLESNICKY, M.D.**  
16 **74785 US Highway 111 Ste. 100**  
**Indian Wells, CA 92210-7129**

17 **Physician's and Surgeon's Certificate**  
**No. C 53051,**

18 Respondent.

19  
20 **PARTIES**

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

24 2. On or about November 3, 2007, the Medical Board issued Physician's and Surgeon's  
25 Certificate No. C 53051 to Bohdan Theodore Olesnicky, M.D. (Respondent). The Physician's  
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on June 30, 2023, unless renewed.

28 ///

## JURISDICTION

3. This First Amended Accusation, which supersedes the Accusation filed on September 6, 2022, 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 states, in pertinent part:

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

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

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

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

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

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

...

5. Section 2228.1 of the Code states, in pertinent part:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board and the Podiatric Medical Board of California shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information internet web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

...

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

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

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

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

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

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

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

15 (d) On and after July 1, 2019, the board shall provide the following  
16 information, with respect to licensees on probation and licensees practicing under  
probationary licenses, in plain view on the licensee's profile page on the board's  
online license information internet web site.

17 (1) For probation imposed pursuant to a stipulated settlement, the causes  
18 alleged in the operative accusation along with a designation identifying those causes  
by which the licensee has expressly admitted guilt and a statement that acceptance of  
the settlement is not an admission of guilt.

19 (2) For probation imposed by an adjudicated decision of the board, the causes  
20 for probation stated in the final probationary order.

21 (3) For a licensee granted a probationary license, the causes by which the  
22 probationary license was imposed.

23 (4) The length of the probation and end date.

24 (5) All practice restrictions placed on the license by the board.

25 (e) Section 2314 shall not apply to this section.

26 6. Section 2234 of the Code, states:

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

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

3 (b) Gross negligence.

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

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

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

16 ...

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

20 ...

21 7. Unprofessional conduct under section 2234 of the Code is conduct which breaches  
22 the rules or ethical code of the medical profession, or conduct which is unbecoming a member in  
23 good standing of the medical profession, and which demonstrates an unfitness to practice  
24 medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

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

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

...

### COST RECOVERY

9. 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

1 investigation and enforcement of the case.

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

4 (c) A certified copy of the actual costs, or a good faith estimate of costs where  
5 actual costs are not available, signed by the entity bringing the proceeding or its  
6 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.

7 (d) The administrative law judge shall make a proposed finding of the amount  
8 of reasonable costs of investigation and prosecution of the case when requested  
9 pursuant to subdivision (a). The finding of the administrative law judge with regard to  
10 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).

11 (e) If an order for recovery of costs is made and timely payment is not made as  
12 directed in the board's decision, the board may enforce the order for repayment in any  
13 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.

14 (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.

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

17 (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally  
18 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.

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

22 (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.

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

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**STATEMENT OF FACTS**

**PATIENT A<sup>1</sup>**

10. On or about December 9, 2016, Patient A, a then thirty-year-old female, presented to the emergency department at Hi-Desert Medical Center with complaints of weakness, fatigue, and a syncopal episode, and was seen by Respondent. Prior to entering the examination cubicle, Respondent intentionally placed his personal cell phone into his shirt pocket and recorded his evaluation of Patient A. Respondent did not inform Patient A that he was recording the evaluation and did not obtain her consent before doing so. While performing a chest examination, Respondent told Patient A that he was "going to get a little fresh here," and then lowered the upper portion of Patient A's gown, exposing both of her naked breasts. Respondent left Patient A's naked breasts exposed throughout his chest examination. Respondent did not document in Patient A's chart that he recorded the evaluation.

**PATIENT B**

11. On or about April 11, 2017, Patient B, an unidentified female, presented to the emergency department at Hi-Desert Medical Center with complaints of abdominal pain. Prior to entering the examination cubicle, Respondent intentionally placed his personal cell phone into his shirt pocket and recorded his evaluation of Patient B. Respondent did not inform Patient B that he was recording the evaluation and did not obtain her consent before doing so. While palpating Patient B's abdomen, Respondent lifted the bottom portion of Patient B's gown, exposing her pubic region, including the top portion of her genitalia. While performing a chest examination, Respondent lowered the upper portion of Patient B's gown, exposing her naked breast. Respondent left Patient B's naked breast exposed throughout his chest examination.

**PATIENT C**

12. On or about June 26, 2017, Patient C, an unidentified pregnant female, presented to the emergency department at Hi-Desert Medical Center with complaints of nausea. Patient C had

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<sup>1</sup> To protect the privacy of the patients and persons involved, the patients' and persons' names have not been included in this pleading. Respondent is aware of the identity of the patients and persons referred to herein.

1 a male companion present with her during the visit. Prior to entering the examination cubicle,  
2 Respondent intentionally placed his personal cell phone into his shirt pocket and recorded his  
3 evaluation of Patient C. Respondent did not inform Patient C that he was recording the  
4 evaluation and did not obtain her consent before doing so. Respondent quickly evaluated Patient  
5 C and then left the examination cubicle.

6 PATIENT D

7 13. On or about June 26, 2017, after completing his evaluation of Patient C, Respondent  
8 then walked into another examination cubicle and met with Patient D. Patient D, a then twenty-  
9 two-year old pregnant female, presented to the emergency department at Hi-Desert Medical  
10 Center with complaints of abdominal pain. Respondent's personal cell phone was still in his shirt  
11 pocket and recorded his evaluation of Patient D. Respondent did not inform Patient D that he was  
12 recording the evaluation and did not obtain her consent before doing so. While palpating Patient  
13 D's abdomen, Respondent lifted the bottom portion of Patient D's gown, exposing her pubic  
14 region. While performing a chest examination, Respondent lowered the upper portion of Patient  
15 D's gown, exposing her naked breast. Respondent left Patient D's naked breast exposed  
16 throughout his chest examination. Respondent did not document in Patient D's chart that he  
17 recorded the evaluation.

18 PATIENT E

19 14. On or about July 16, 2021, Patient E, a then nine-year-old male, presented to the  
20 emergency department at Bear Valley Community Hospital with complaints of a wrist injury after  
21 a fall from his bicycle, and was seen by Respondent. During the course of the visit, Patient E had  
22 x-rays taken of his arm to confirm his injury.

23 15. After reviewing Patient E's x-rays, Respondent met with Patient E and his mother  
24 (Victim) in a private clinical area. Respondent informed them that Patient E's wrist was broken.  
25 Respondent asked Victim if she wanted him to take pictures of the x-rays on her cell phone so she  
26 could use it at future medical appointments. Victim agreed and provided her cell phone to  
27 Respondent. Respondent then left the clinical area with Victim's cell phone.

28 ///

1 16. After approximately one minute, Respondent returned to the clinical area with  
2 Victim's cell phone. Victim unlocked her phone to view the pictures. Respondent then asked for  
3 the phone back so he could take more pictures. Victim then handed Respondent her unlocked cell  
4 phone. Respondent then left the clinical area with Victim's cell phone.

5 17. After approximately two to three minutes, Respondent had not returned to the clinical  
6 area. Victim then walked out of the clinical area and found Respondent sitting at his desk  
7 hunched over with Victim's cell phone on his lap. Victim demanded Respondent return her cell  
8 phone, to which Respondent complied.

9 18. After Respondent returned Victim's cell phone, Victim immediately noted her camera  
10 roll was open and approximately 20-25 personal sexual images and videos of Victim were in the  
11 process of being AirDropped.<sup>2</sup> When confronted, Respondent admitted to Victim that he had  
12 AirDropped sexual photos from Victim's cell phone to his own cell phone. Victim was visibly  
13 upset and, sometime thereafter, police were called to the hospital.

14 19. When police officers arrived, Respondent admitted to viewing Victim's sexual photos  
15 and then AirDropping them to his own cell phone. Respondent was subsequently placed under  
16 arrest for violation of Penal Code section 647(j)(4)(A).<sup>3</sup>

### 17 **FIRST CAUSE FOR DISCIPLINE**

#### 18 **(Sexual Abuse and/or Sexual Misconduct)**

19 20. Respondent has subjected his Physician's and Surgeon's Certificate No. C 53051 to  
20 disciplinary action under sections 2227, 2234, and 726, of the Code, in that he engaged in sexual  
21 abuse and/or sexual misconduct with a patient or patients as more particularly alleged in

22 ///

23  
24 <sup>2</sup> AirDrop is a wireless service that permits users to transfer files among supported devices  
by means of close-range wireless communication.

25 <sup>3</sup> Penal Code section 647(j)(4)(A) makes it unlawful for a person to intentionally distribute  
26 the image of the intimate body part or parts of another identifiable person, or an image of the  
person depicted engaged in an act of sexual intercourse, sodomy, oral copulation, sexual  
27 penetration, or an image of masturbation by the person depicted or in which the person depicted  
participates, under circumstances in which the persons agree or understand that the image shall  
28 remain private, the person distributing the image knows or should know that distribution of the  
image will cause serious emotional distress, and the person depicted suffers that distress.



1 paragraphs 10 through 13, above, which are hereby incorporated by reference and realleged as if  
2 fully set forth herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dishonesty or Corruption)**

5 21. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
6 C 53051 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
7 subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption,  
8 as more particularly alleged in paragraphs 10 through 19, above, which are hereby incorporated  
9 by reference and realleged as if fully set forth herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Gross Negligence)**

12 22. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
13 C 53051 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
14 subdivision (b), of the Code, in that he was grossly negligent in his care and treatment of Patients  
15 A, D, and E, as more particularly alleged hereinafter:

- 16 A. Paragraphs 10, 13, and 14 through 19, above, are hereby incorporated by  
17 reference and realleged as if fully set forth herein;
- 18 B. Inappropriately exposing Patient A's intimate body parts during her physical  
19 examination;
- 20 C. Recording Patient A's physical examination without her knowledge or consent;
- 21 D. Improperly managing Patient A's protected health information on his personal  
22 cell phone;
- 23 E. Inappropriately exposing Patient D's intimate body parts during her physical  
24 examination;
- 25 F. Recording Patient D's physical examination without her knowledge or consent;
- 26 G. Improperly managing Patient D's protected health information on his personal  
27 cell phone; and

28 ///

1 H. Downloading sexually explicit images from Patient E's mother's phone without  
2 her consent.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Repeated Negligent Acts)**

5 23. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
6 C 53051 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
7 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and  
8 treatment of Patients A, D, and E, as more particularly alleged in paragraphs 10, 13, 14 through  
9 19, and 22 (A) through (G) above, which are hereby incorporated by reference and realleged as if  
10 fully set forth herein.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 24. Respondent has further subjected his Physician's and Surgeon's Certificate  
14 No. C 53051 to disciplinary action under sections 2227 and 2234 of the Code, in that he has  
15 engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct  
16 which is unbecoming to a member in good standing of the medical profession, and which  
17 demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10  
18 through 23, above, which are hereby incorporated by reference as if fully set forth herein.

19 **PRAYER**

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

22 1. Revoking or suspending Physician's and Surgeon's Certificate No. C 53051, issued to  
23 Respondent, Bohdan Theodore Olesnicky, M.D.;

24 2. Revoking, suspending or denying approval of Respondent, Bohdan Theodore  
25 Olesnicky, M.D.'s authority to supervise physician assistants and advanced practice nurses;

26 3. Ordering Respondent, Bohdan Theodore Olesnicky, M.D., to pay the Board the costs  
27 of the investigation and enforcement of this case, and if placed on probation, the costs of  
28 probation monitoring;

1           4.     Ordering Respondent, Bohdan Theodore Olesnick, M.D., if placed on probation, to  
2 provide patient notification in accordance with Business and Professions Code section 2228.1;  
3 and

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

5                   MAY 25 2023  
6 DATED: \_\_\_\_\_

  
\_\_\_\_\_  
REJI VARGHESE  
Interim Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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