

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

In the Matter of the Accusation Against:

Harvey A. Kryger, M.D.

Physician's and Surgeon's  
Certificate No. G 26999

Respondent.

Case No. 800-2020-071021

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on APR 18 2024.

IT IS SO ORDERED APR 11 2024.

MEDICAL BOARD OF CALIFORNIA

JENNA JONES FOR

Reji Varghese  
Executive Director

1 ROB BONTA  
Attorney General of California  
2 MACHAELA M. MINGARDI  
Supervising Deputy Attorney General  
3 State Bar No. 194400  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 510-3469  
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*Attorneys for Complainant*  
6

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

10 In the Matter of the Accusation Against:

Case No. 800-2020-071021

11 **HARVEY A. KRYGER, M.D.**  
12 **1084 CASS STREET**  
**MONTEREY, CA 93940**

13 **Physician's and Surgeon's Certificate No. G**  
14 **26999,**

15 Respondent.

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

16  
17 **IT IS HEREBY STIPULATED AND AGREED by and between the parties to the**  
18 **above-entitled proceedings that the following matters are true:**

19 **PARTIES**

20 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of  
21 California (Board). He brought this action solely in his official capacity and is represented in this  
22 matter by Rob Bonta, Attorney General of the State of California, by Machaela M. Mingardi,  
23 Supervising Deputy Attorney General.

24 2. HARVEY A. KRYGER, M.D. (Respondent) is represented in this proceeding by  
25 attorney Cyrus A. Tabari, whose address is: 990 Fifth Avenue, San Rafael, CA 94901.

26 3. On or about June 24, 1974, the Board issued Physician's and Surgeon's Certificate  
27 No. G 26999 to Respondent. That license was in full force and effect at all times relevant to the  
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1 charges brought in Accusation No. 800-2020-071021 and will expire on July 31, 2024, unless  
2 renewed.

3 **JURISDICTION**

4 4. Accusation No. 800-2020-071021 was filed before the Board, and is currently  
5 pending against Respondent. The Accusation and all other statutorily required documents were  
6 properly served on Respondent on September 15, 2023. Respondent timely filed his Notice of  
7 Defense contesting the Accusation. A copy of Accusation No. 800-2020-071021 is attached as  
8 Exhibit A and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. 800-2020-071021. Respondent also has carefully read,  
12 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License  
13 and Order.

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

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

22 **CULPABILITY**

23 8. Respondent understands that the charges and allegations in Accusation No. 800-2020-  
24 071021, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and  
25 Surgeon's Certificate.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of  
27 further proceedings, Respondent agrees that, at a hearing, should the allegations of the Accusation  
28 be proven, Complainant could establish a factual basis for the charges in the Accusation and that

1 those charges constitute cause for discipline. Respondent hereby gives up his right to contest that  
2 cause for discipline exists based on those charges.

3 10. Respondent understands that by signing this stipulation she enables the Board to issue  
4 an order accepting the surrender of his Physician's and Surgeon's Certificate without further  
5 process.

### 6 CONTINGENCY

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

10 12. Respondent understands that, by signing this stipulation, he enables the Executive  
11 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his  
12 Physician's and Surgeon's Certificate No. G 26999 without further notice to, or opportunity to be  
13 heard by, Respondent.

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

22 14. The parties agree that this Stipulated Surrender of License and Disciplinary Order  
23 shall be null and void and not binding upon the parties unless approved and adopted by the  
24 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full  
25 force and effect. Respondent fully understands and agrees that in deciding whether or not to  
26 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive  
27 Director and/or the Board may receive oral and written communications from its staff and/or the  
28 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the

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

12 **ADDITIONAL PROVISIONS**

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

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

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

22 **ORDER**

23 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 26999, issued  
24 to Respondent HARVEY A. KRYGER, M.D., is surrendered and accepted by the Board.

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



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I have read and fully discussed with Respondent HARVEY A. KRYGER, 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:

2/27/24

  
CYRUS A. TABARI  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: \_\_\_\_\_

Respectfully submitted,

ROB BONTA  
Attorney General of California

MACHAELA M. MINGARDI  
Supervising Deputy Attorney General  
*Attorneys for Complaitnant*

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I have read and fully discussed with Respondent HARVEY A. KRYGER, 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: \_\_\_\_\_  
CYRUS A. TABARI  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: 4/2/2024

Respectfully submitted,  
ROB BONTA  
Attorney General of California

*Machaela M. Mingardi*  
MACHAELA M. MINGARDI  
Supervising Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2020-071021**

1 ROB BONTA  
Attorney General of California  
2 GREG W. CHAMBERS  
Supervising Deputy Attorney General  
3 MACHAELA M. MINGARDI  
Deputy Attorney General  
4 State Bar No. 194400  
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6 Facsimile: (415) 703-5480  
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8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2020-071021

13 **Harvey A. Kryger, M.D.**  
14 **1084 Cass Street**  
**Monterey, CA 93940**

**A C C U S A T I O N**

15 **Physician's and Surgeon's Certificate**  
16 **No. G 26999,**

Respondent.

17  
18  
19 **PARTIES**

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

23 2. On or about June 24, 1974, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number G 26999 to Harvey A. Kryger, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on July 31, 2024, unless renewed.

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1 JURISDICTION

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

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

9 5. Section 2228.1 of the Code states.

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

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

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

24 (B) Drug or alcohol abuse directly resulting in harm to patients or the extent  
25 that such use impairs the ability of the licensee to practice safely.

26 (C) Criminal conviction directly involving harm to patient health.

27 (D) Inappropriate prescribing resulting in harm to patients and a probationary  
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1 period of five years or more.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (b) Gross negligence.

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

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

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

25 (d) Incompetence.

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

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

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

4 7. Section 726 of the Code states:

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

8  
9 **COST RECOVERY**

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

16  
17 **FACTUAL ALLEGATIONS**

18 9. On or about June 26, 2020, Patient 1<sup>1</sup> sought treatment from Respondent for anxiety.  
19 While Patient 1 was alone in the examination room with Respondent, Respondent asked Patient 1  
20 if he was able to get erections. Respondent then had Patient 1 pull his pants down, exposing his  
21 penis. Respondent grabbed the tip of Patient 1’s penis and put his hand flat on his testicles, palm  
22 up. Respondent then had Patient 1 pull his pants back up. Respondent did not say anything to  
23 Patient 1 while he touched his penis.

24 10. Patient 1 saw Respondent for a second appointment on or about July 20, 2020, for  
25 treatment of Patient 1’s anxiety. About a week after this appointment with Respondent,  
26 Respondent began calling and texting Patient 1. The texts included pictures of baked goods and

27 \_\_\_\_\_  
28 <sup>1</sup> Patients are referred to by number to protect privacy. Respondent is aware of the identity  
of Patient 1.

1 other odd texts that were sent at various days and times of the week. Some texts were sent in the  
2 middle of the night.

3 11. On or about September 15, 2020, Patient 1 saw Respondent for back pain. While  
4 alone in the examination room with Respondent, Respondent told Patient 1 to remove his pants  
5 and underwear and began caressing his inner thigh. Respondent then started rubbing Patient 1's  
6 penis with his hand and began to massage the head of his penis. Respondent did not say anything  
7 during this part of the examination. Respondent then told Patient 1 to pull his pants up. Patient 1  
8 felt uncomfortable and did not return to Respondent for future visits.

9 12. During his treatment of Patient 1, Respondent prescribed Patient 1 Clonazepam<sup>2</sup>, a  
10 controlled substance, without checking CURES and without obtaining informed consent. Patient  
11 1 was taking other medications from other medical providers and the combination of Clonazepam  
12 with these medications increased his risk of respiratory depression. In addition, Patient 1 has a  
13 history of substance abuse and was at an increased risk for becoming addicted to Clonazepam.

14  
15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct/Gross Negligence)**

17 13. Paragraphs 9 through 12 are incorporated as if fully stated herein. Respondent Harvey  
18 A. Kryger, M.D. is subject to disciplinary action under sections 2234 and 2234 (b) of the Code for  
19 unprofessional conduct and gross negligence in that he inappropriately touched the genitals of  
20 Patient 1 as described above.

21  
22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct/Repeated Negligent Acts)**

24 14. Paragraphs 9 through 13 are incorporated as if fully stated herein. Respondent Harvey  
25 A. Kryger, M.D. is subject to disciplinary action under sections 2234 and 2234(c) in that he

26  
27 <sup>2</sup> Clonazepam is a Schedule IV controlled substance. It is a benzodiazepine used in the  
28 treatment of panic disorder, as well as some seizure disorders. It is recommended for short-term  
use because it may produce emotional and/or physical dependence even when used as  
recommended.

1 committed unprofessional conduct and repeated negligent acts in his treatment of Patient 1 as  
2 described above and for his personal communications to Patient 1 that failed to meet the standard  
3 of care for maintaining a professional relationship with a patient.

4  
5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct/Sexual Misconduct)**

7 15. Paragraphs 9 through 14 are incorporated as if fully stated herein. Respondent Harvey  
8 A. Kryger, M.D. is subject to disciplinary action under sections 2234 and 726 of the Code, in that  
9 he committed sexual misconduct when he inappropriately touched the genitals of Patient 1 as  
10 described above.

11 **PRAYER**

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

- 14 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 26999,  
15 issued to Harvey A. Kryger, M.D.;
- 16 2. Revoking, suspending or denying approval of Harvey A. Kryger, M.D. 's authority to  
17 supervise physician assistants and advanced practice nurses;
- 18 3. Ordering Harvey A. Kryger, M.D., to pay the Board the costs of the investigation and  
19 enforcement of this case, and if placed on probation, the costs of probation monitoring;
- 20 4. Ordering Respondent Harvey A. Kryger, M.D., if placed on probation, to provide  
21 patient notification in accordance with Business and Professions Code section 2228.1; and
- 22 5. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: SEP 15 2023

25   
26 REJI VARGHESE  
27 Executive Director  
28 Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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