

**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**

Case No. 800-2020-071021

Respondent.

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
5 Facsimile: (415) 703-5480
6 *Attorneys for Complainant*

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

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

15 Respondent.

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
28

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.

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 Accusation No. 800-2020-071021 shall be deemed to be true, correct and 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 \$45,261 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 Accusation No. 800-2020-071021 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Cyrus A. Tabari. 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: 2/27/2024


HARVEY A. KRYGER, M.D.
Respondent

1 I have read and fully discussed with Respondent HARVEY A. KRYGER, M.D. the terms
2 and conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: 2/27/24


CYRUS A. TABARI
Attorney for Respondent

6
7 **ENDORSEMENT**

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

10 DATED: _____

Respectfully submitted,

11 ROB BONTA
Attorney General of California

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14 MACHAELA M. MINGARDI
Supervising Deputy Attorney General
Attorneys for Complainant

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1 I have read and fully discussed with Respondent HARVEY A. KRYGER, M.D. the terms
2 and conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: _____

CYRUS A. TABARI
Attorney for Respondent

6
7 **ENDORSEMENT**

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

10 DATED: 4/2/2024

Respectfully submitted,

11 ROB BONTA
Attorney General of California

12
13 *Machaela M. Mingardi*

14 MACHAELA M. MINGARDI
Supervising Deputy Attorney General
15 *Attorneys for Complainant*

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17 SF2023401700
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Exhibit A

Accusation No. 800-2020-071021

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2 GREG W. CHAMBERS
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3 MACHAELA M. MINGARDI
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Attorneys for Complainant
7

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 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 1¹ 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 ¹ 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 Clonazepam², 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 ² 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

SF2023401700