

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

In the Matter of the Accusation  
Against:

Edwin Bashaw McClelland, M.D.

Physician's and Surgeon's  
Certificate No. A 84135

Respondent.

Case No. 800-2022-091131

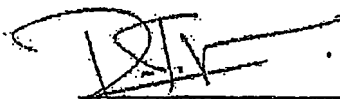
DECISION

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 June 13, 2024.

IT IS SO ORDERED June 6, 2024.

MEDICAL BOARD OF CALIFORNIA



Reji Varghese  
Executive Director

1 ROB BONTA  
Attorney General of California  
2 MICHAEL C. BRUMMEL  
Supervising Deputy Attorney General  
3 KALEV KASEORU  
Deputy Attorney General  
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10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2022-091131

13 **EDWIN BASHAW MCCLELLAND, M.D.**  
14 **3733 San Jose Ave # 5**  
**Merced, CA 95348**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 84135**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

17 Respondent.  
18

19 **IT IS HEREBY STIPULATED AND AGREED by and between the parties to the**  
20 **above-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 Kalev Kaseoru, Deputy  
25 Attorney General.

26 2. Edwin Bashaw McClelland, M.D. (Respondent) is representing himself in this  
27 proceeding and has chosen not to be represented by counsel.  
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3. On or about July 30, 2003, the Board issued Physician's and Surgeon's Certificate No. A 84135 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2022-091131 and will expire on May 31, 2025, unless renewed.

## JURISDICTION

4. Accusation No. 800-2022-091131 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents have been reviewed by Respondent. A copy of Accusation No. 800-2022-091131 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2022-091131. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and 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 Accusation; the right to be represented by counsel, at his own expense; 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. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2022-091131, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. A 84135 for the Board's formal acceptance.

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

## RESERVATION

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

## CONTINGENCY

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

12. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 84135 without further notice to, or opportunity to be heard by, Respondent.

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

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to

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. A 84135, issued  
27 to Respondent Edwin Bashaw McClelland, 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 in California as of the  
6 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. 800-2022-091131 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 \$11,687.25 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. 800-2022-091131 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.

22          7.     Respondent shall pay the agency its costs of investigation and enforcement in the  
23 amount of \$11,687.25 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. 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: 3/8/2024        
EDWIN BASHAW MCCLELLAND, M.D.  
*Respondent*

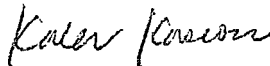
ENDORSEMENT

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: May 20, 2024

Respectfully submitted,

ROB BONTA  
Attorney General of California  
MICHAEL C. BRUMMEL  
Supervising Deputy Attorney General



KALEV KASEORU  
Deputy Attorney General  
*Attorneys for Complainant*

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## **Exhibit A**

**Accusation No. 800-2022-091131**



1 ROB BONTA  
Attorney General of California  
2 MICHAEL C. BRUMMEL  
Supervising Deputy Attorney General  
3 KALEV KASEORU  
Deputy Attorney General  
4 State Bar No. 331645  
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*Attorneys for Complainant*  
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10 **BEFORE THE**  
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11 **STATE OF CALIFORNIA**  
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13 In the Matter of the Accusation Against:

Case No. 800-2022-091131

14 **EDWIN BASHAW MCCLELLAND, M.D.**  
3733 San Jose Ave # 5  
15 Merced, CA 95348-2264

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

16 **Physician's and Surgeon's Certificate**  
No. A 84135,  
17

Respondent.  
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20 **PARTIES**

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

24 2. On or about July 30, 2003, the Medical Board issued Physician's and Surgeon's  
25 Certificate No. A 84135 to Edwin Bashaw McClelland, M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on May 31, 2025, unless renewed.

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**JURISDICTION**

3. This Accusation 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 provides that a licensee who is found guilty under the Medical Practice Act may have his license revoked or 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.

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct<sup>1</sup>. 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.

"..."

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

"..."

6. Section 726 of the Code states:

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

"..."

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<sup>1</sup> Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (Shea v. Board of Medical Examiners (1978) 81 Cal.App.3d 564, 575.)

7. Section 729 of the Code states:

“(a) Any physician and surgeon . . who engages in an act of sexual contact with a patient or client, or with a former patient or client. . is guilty of sexual exploitation by a physician and surgeon. . .”

8. Section 2228.1 of the Code provides that all licensees must provide a separate disclosure to all patients which includes probation status, the length of 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 if the licensee is placed on probation after final adjudication by the Board for the commission of any act of sexual abuse, misconduct or relations with a patient pursuant to section 726 and 729 of the Code.

## COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

## FACTUAL ALLEGATIONS

10. On or about August 16, 2022, Patient A<sup>2</sup> presented to Concentra Urgent Care in West Sacramento for a pre-employment physical. Patient A claims that during the exam Respondent engaged in unnecessary, inappropriate, and unwanted touching of her chest.

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<sup>2</sup> Patient names are omitted to protect privacy. They are known to Respondent and will be provided in discovery.

**FIRST CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct: Sexual Misconduct/Sexual Exploitation, Gross Negligence)**

11. Respondent's Physician's and Surgeon's Certificate No. A 84135 is subject to disciplinary action under section 2234 (unprofessional conduct), subdivision (a), and/or section 726 (sexual misconduct) and/or section 729 (sexual exploitation) of the Code, in that Respondent engaged in Sexual Misconduct and/or Sexual Exploitation of Patient A as described in paragraph 10 above, including, but not limited to, the following:

A. Respondent touched Patient A in an inappropriate and unwanted manner.

**SECOND CAUSE FOR DISCIPLINE**

**(General Unprofessional Conduct)**

12. Respondent's Physician and Surgeon's Certificate No. A 84135 is subject to disciplinary action under sections 2227 and 2234 of the Code, in that Respondent engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 11, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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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 No. A 84135, issued to Respondent Edwin Bashaw McClelland, M.D.;
2. Revoking, suspending or denying approval of Respondent Edwin Bashaw McClelland, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Edwin Bashaw McClelland, 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;
4. Taking such other and further action as deemed necessary and proper.

DATED: MAY 16 2024

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

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