

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

In the Matter of the Accusation
Against:

Karen Erika Kunzel, M.D.

Physician's and Surgeon's
Certificate No. G 69747

Case No.: 800-2020-068419

Respondent.

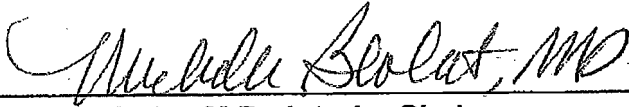
DECISION

The attached Stipulated Settlement 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 JUL 31 2024.

IT IS SO ORDERED: JUL 01 2024.

MEDICAL BOARD OF CALIFORNIA



Michelle Bholat, M.D., Interim Chair
Panel A

1 ROB BONTA
Attorney General of California
2 EDWARD KIM
Supervising Deputy Attorney General
3 CHRISTINE FRIAR WALTON
Deputy Attorney General
4 State Bar No. 228421
Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6472
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

12 **KAREN ERIKA KUNZEL, M.D.**
13 **15151 National Avenue**
Los Gatos, CA 95032-2627

14 **Physician's and Surgeon's Certificate**
15 **No. G 69747,**

16 Respondent.

Case No. 800-2020-068419

OAH No. 2023110720

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

20 **PARTIES**

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

25 2. Respondent Karen Erika Kunzel, M.D. (Respondent) is represented in this proceeding
26 by attorney David T. Shuey, whose address is: 475 City Center, 475 14th Street, Suite 650,
27 Oakland, California 94612.

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3. On September 10, 1990, the Board issued Physician's and Surgeon's Certificate No. G 69747 to Respondent. That Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2020-068419, and will expire on March 31, 2026, unless renewed.

JURISDICTION

4. Accusation No. 800-2020-068419 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 21, 2022. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2020-068419 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2020-068419. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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 understands and agrees that the charges and allegations in Accusation No. 800-2020-068419, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

9. Respondent does not contest that, at an administrative hearing, Complainant could

1 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
2 2020-068419, a true and correct copy of which is attached hereto as Exhibit A, and that she has
3 thereby subjected her Physician's and Surgeon's Certificate No. G 69747 to disciplinary action.

4 10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to
5 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Medical Board of California.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
10 Board of California may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or her counsel. By signing the
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. Respondent agrees that if she ever petitions for early termination or modification of
19 probation, or if an accusation and/or petition to revoke probation is filed against her before the
20 Board, all of the charges and allegations contained in Accusation No. 800-2020-068419 shall be
21 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
22 any other licensing proceeding involving Respondent in the State of California.

23 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
24 be an integrated writing representing the complete, final and exclusive embodiment of the
25 agreement of the parties in this above-entitled matter.

26 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
27 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
28 signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 69747 issued to Respondent Karen Erika Kunzel, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s),

1 Accusation(s), and any other information that the Board or its designee deems relevant. The
2 program shall require Respondent's on-site participation for a minimum of three (3) and no more
3 than five (5) days as determined by the program for the assessment and clinical education
4 evaluation. Respondent shall pay all expenses associated with the clinical competence
5 assessment program.

6 At the end of the evaluation, the program will submit a report to the Board or its designee
7 which unequivocally states whether the Respondent has demonstrated the ability to practice
8 safely and independently. Based on Respondent's performance on the clinical competence
9 assessment, the program will advise the Board or its designee of its recommendation(s) for the
10 scope and length of any additional educational or clinical training, evaluation or treatment for any
11 medical condition or psychological condition, or anything else affecting Respondent's practice of
12 medicine. Respondent shall comply with the program's recommendations.

13 Determination as to whether Respondent successfully completed the clinical competence
14 assessment program is solely within the program's jurisdiction.

15 If Respondent fails to enroll, participate in, or successfully complete the clinical
16 competence assessment program within the designated time period, Respondent shall receive a
17 notification from the Board or its designee to cease the practice of medicine within three (3)
18 calendar days after being so notified. The Respondent shall not resume the practice of medicine
19 until enrollment or participation in the outstanding portions of the clinical competence assessment
20 program have been completed. If the Respondent did not successfully complete the clinical
21 competence assessment program, the Respondent shall not resume the practice of medicine until a
22 final decision has been rendered on the accusation and/or a petition to revoke probation. The
23 cessation of practice shall not apply to the reduction of the probationary time period.

24 3. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
25 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
26 Chief Executive Officer at every hospital where privileges or membership are extended to
27 Respondent, at any other facility where Respondent engages in the practice of medicine,
28 including all physician and locum tenens registries or other similar agencies, and to the Chief

1 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
2 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
3 calendar days.

4 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5 4. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
6 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
7 advanced practice nurses.

8 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
9 governing the practice of medicine in California and remain in full compliance with any court
10 ordered criminal probation, payments, and other orders.

11 6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
12 ordered to reimburse the Board its costs of investigation and enforcement in the amount of
13 \$35,863.80 (Thirty-five thousand eight hundred sixty-three dollars and eighty cents). Costs shall
14 be payable to the Medical Board of California. Failure to pay such costs shall be considered a
15 violation of probation.

16 Payment must be made in full within 30 calendar days of the effective date of the Order, or
17 by a payment plan approved by the Medical Board of California. Any and all requests for a
18 payment plan shall be submitted in writing by Respondent to the Board. Failure to comply with
19 the payment plan shall be considered a violation of probation.

20 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
21 to repay investigation and enforcement costs.

22 7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
23 under penalty of perjury on forms provided by the Board, stating whether there has been
24 compliance with all the conditions of probation.

25 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
26 of the preceding quarter.

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1 8. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

5 Respondent shall, at all times, keep the Board informed of Respondent's business and
6 residence addresses, email address (if available), and telephone number. Changes of such
7 addresses shall be immediately communicated in writing to the Board or its designee. Under no
8 circumstances shall a post office box serve as an address of record, except as allowed by Business
9 and Professions Code section 2021, subdivision (b).

10 Place of Practice

11 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
12 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
13 facility.

14 License Renewal

15 Respondent shall maintain a current and renewed California physician's and surgeon's
16 license.

17 Travel or Residence Outside California

18 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
19 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
20 (30) calendar days.

21 In the event Respondent should leave the State of California to reside or to practice
22 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
23 departure and return.

24 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
25 available in person upon request for interviews either at Respondent's place of business or at the
26 probation unit office, with or without prior notice throughout the term of probation.

27 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
28 its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine as defined in Business and
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If
5 Respondent resides in California and is considered to be in non-practice, Respondent shall
6 comply with all terms and conditions of probation. All time spent in an intensive training
7 program which has been approved by the Board or its designee shall not be considered non-
8 practice and does not relieve Respondent from complying with all the terms and conditions of
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
10 on probation with the medical licensing authority of that state or jurisdiction shall not be
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
12 period of non-practice.

13 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
14 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
15 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
16 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
17 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

18 Respondent's period of non-practice while on probation shall not exceed two (2) years.

19 Periods of non-practice will not apply to the reduction of the probationary term.

20 Periods of non-practice for a Respondent residing outside of California will relieve
21 Respondent of the responsibility to comply with the probationary terms and conditions with the
22 exception of this condition and the following terms and conditions of probation: Obey All Laws;
23 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
24 Controlled Substances; and Biological Fluid Testing..

25 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
26 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
27 completion of probation. This term does not include cost recovery, which is due within 30
28 calendar days of the effective date of the Order, or by a payment plan approved by the Medical

1 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate
2 shall be fully restored.

3 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
4 of probation is a violation of probation. If Respondent violates probation in any respect, the
5 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
6 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
7 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
8 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
9 the matter is final.

10 13. LICENSE SURRENDER. Following the effective date of this Decision, if
11 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
12 the terms and conditions of probation, Respondent may request to surrender his or her license.
13 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
14 determining whether or not to grant the request, or to take any other action deemed appropriate
15 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
16 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
17 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
18 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
19 application shall be treated as a petition for reinstatement of a revoked certificate.

20 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
21 with probation monitoring each and every year of probation, as designated by the Board, which
22 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
23 California and delivered to the Board or its designee no later than January 31 of each calendar
24 year.

25 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
26 a new license or certification, or petition for reinstatement of a license, by any other health care
27 licensing action agency in the State of California, all of the charges and allegations contained in
28 Accusation No. 800-2020-068419 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 license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David T. Shuey. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 4/8/2024

K. Kunzel MD
KAREN ERIKA KUNZEL, M.D.
Respondent

I have read and fully discussed with Respondent Karen Erika Kunzel, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

DAVID T. SHUEY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General

CHRISTINE FRIAR WALTON
Deputy Attorney General
Attorneys for Complainant

Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

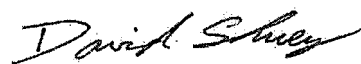
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David T. Shuey. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: _____

KAREN ERIKA KUNZEL, M.D.
Respondent

I have read and fully discussed with Respondent Karen Erika Kunzel, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: April 8, 2024


DAVID T. SHUEY
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: April 8, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General

Christine Friar
Walton

Digitally signed by Christine
Friar Walton
Date: 2024.04.08 15:29:09
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CHRISTINE FRIAR WALTON
Deputy Attorney General
Attorneys for Complainant

1 ROB BONTA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
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6 Facsimile: (415) 703-5480
E-mail: Hamsa.Murthy@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2020-068419

13 **Karen Erika Kunzel, M.D.**
14 **15151 National Avenue**
Los Gatos, CA 95032

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. G 69747,**

Respondent.

17
18 **PARTIES**
19

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

23 2. On or about September 10, 1990, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G 69747 to Karen Erika Kunzel, 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 March 31, 2024, unless renewed.

27 //

28 //

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 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 or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2228.1 of the Code provides that: (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 website, 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.

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

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

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

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 6. Section 2234 of the Code states, in pertinent parts:

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

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

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

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

8 “(d) Incompetence.”

9 COST RECOVERY

10 7. Business and Professions Code section 125.3 states that:

11 (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
12 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
13 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.

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

16 (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs
17 are not available, signed by the entity bringing the proceeding or its designated representative
shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.
18 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.

19 (d) The administrative law judge shall make a proposed finding of the amount of reasonable
20 costs of investigation and prosecution of the case when requested pursuant to subdivision (a).
The finding of the administrative law judge with regard to costs shall not be reviewable by the
21 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
22 pursuant to subdivision (a).

23 (e) If an order for recovery of costs is made and timely payment is not made as directed in
24 the board's decision, the board may enforce the order for repayment in any appropriate court.
This right of enforcement shall be in addition to any other rights the board may have as to any
25 licensee to pay costs.

26 (f) In any action for recovery of costs, proof of the board's decision shall be conclusive
27 proof of the validity of the order of payment and the terms for payment.

28 (g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license

1 of any licensee who has failed to pay all of the costs ordered under this section.

2 (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or
3 reinstate for a maximum of one year the license of any licensee who demonstrates financial
4 hardship and who enters into a formal agreement with the board to reimburse the board within
5 that one-year period for the unpaid costs.

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

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

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

13 CAUSE FOR DISCIPLINE

14 **(Unprofessional Conduct/ Gross Negligence/ Repeated Negligent Acts/ Incompetence)**

15 8. Respondent is subject to disciplinary action under sections 2234 and/or 2234(b)
16 and/or 2234(c) and/or 2234(d) in that Respondent engaged in unprofessional conduct and/or
17 committed gross negligence and/or repeated acts of negligence and/or incompetence in her care
18 and treatment of Patient 1¹, a twenty-five year old woman. The circumstances are as follows:

19 9. Respondent is a board-certified obstetrician and gynecologist who has been practicing
20 as part of a group in Los Gatos, CA.

21 10. Respondent saw Patient 1 at an office visit on January 4, 2017 for a pregnancy test.
22 Respondent confirmed Patient 1 was pregnant and performed an ultrasound. Patient 1 was found
23 to be approximately 8 weeks pregnant, and she was given a pregnancy guide document produced
24 by Respondent's medical practice, which accurately described the genetic bases of cystic
25 fibrosis.² Respondent's medical record for Patient 1 dated January 4, 2017 states in the encounter
26 notes and patient recommendations section that Patient 1 is to be screened for being a genetic
27 carrier for some autosomal recessive conditions, including, but not limited to, cystic fibrosis. The
28 medical record for Patient 1 for that date also explains that, if both parents are carriers for the

¹ The patient is referred to as Patient 1 to protect privacy.

² Cystic fibrosis is an inherited disease that causes severe damage to the lungs, digestive system and other organs in the body.

1 same condition, the baby has a 25% chance of having that disease and further testing would be
2 discussed.

3 11. Respondent saw Patient 1 again on January 19, 2017. Patient 1's medical record for
4 that date states that Respondent discussed prenatal care with her, including cystic fibrosis
5 screening. Patient 1 was given a lab slip for genetic diseases screening tests. Patient 1 had a
6 blood sample taken on January 19, 2017, and the lab results subsequently reported to Respondent
7 showed a positive result for Patient 1 for being a carrier of a cystic fibrosis gene. The lab results
8 of the cystic fibrosis expanded screen received by Respondent on or around February 1, 2017
9 informed her that Patient 1 tested positive as a carrier of the G551D cystic fibrosis mutation, and
10 it also recommended genetic counseling for Patient 1. Respondent did not refer Patient 1 for
11 genetic counseling or evaluation by another suitable specialist at that time.

12 12. On February 1, 2017, pursuant to an order signed by Respondent, Patient 1's partner,
13 the biological father of Patient 1's child, was screened for a cystic fibrosis gene. The results,
14 which were also subsequently reported to Respondent, showed that Patient 1's partner was also a
15 carrier of a cystic fibrosis gene. The lab results of the cystic fibrosis expanded screen received by
16 Respondent on or around February 10, 2017 informed her that Patient 1's partner tested positive
17 as a carrier of the F508D mutation and recommended genetic counseling. Respondent did not
18 refer Patient 1 or Patient 1 and her partner for genetic counseling or evaluation by another
19 suitable specialist at that time.

20 13. On February 13, 2017, Respondent diagnosed Patient 1 as a "cystic fibrosis carrier in
21 second trimester, antepartum" and wrote in Patient 1's medical record that Patient 1 carries
22 "G551D [mutation] and partner carries F508 [mutation]." Respondent, however, did not let
23 Patient 1 know that their baby had a 25% chance of having cystic fibrosis as a result of being born
24 to two parents with cystic fibrosis genetic mutations. Respondent did not refer Patient 1 and her
25 partner for genetic counseling, or to another suitable medical specialist, for further discussion
26 regarding the likelihood of their having a child with cystic fibrosis. On February 13, 2017,
27 Respondent ordered office staff to phone Patient 1 and tell her that she and her partner are "both
28 carriers of a Cystic Fibrosis gene but they carry different types so the baby will not have CF but

1 may be a carrier.” Respondent also ordered office staff to tell Patient 1 that no follow up was
2 needed at that time. Office staff so advised Patient 1 on February 13, 2017.

3 14. Respondent saw Patient 1 again for additional prenatal visits in March, April, May,
4 and June of 2017, but she did not counsel Patient 1 during any of those encounters regarding the
5 possibility that her child would have cystic fibrosis, based on the results of the cystic fibrosis
6 screening tests Respondent ordered for Patient 1 and her partner.

7 15. Patient 1 subsequently moved to another state and delivered a child who has cystic
8 fibrosis.

9 16. Paragraphs 7 to 14 are hereby incorporated by reference as if fully stated herein.
10 Respondent is guilty of unprofessional conduct, and Respondent’s certificate is subjected to
11 discipline pursuant to Sections 2234 and/or 2334(b) and/or 2234(c) and/or 2234 (d) of the Code
12 based on gross negligence and/or repeated negligent acts and/or incompetence, including, but not
13 limited to, the following:

14 A. Respondent’s failure to provide accurate and timely information to
15 Patient 1 regarding the potential consequences of Patient 1 and her partner both being carriers of
16 cystic fibrosis mutations, including, but not limited to, the possibility that their child could have
17 cystic fibrosis;

18 B. Respondent’s failure to be aware of the correct genetic bases of cystic
19 fibrosis, when they were described accurately in the patient informational literature given to
20 Patient 1 at Respondent’s medical practice;

21 C. Respondent’s failure to refer Patient 1 for genetic counseling when her
22 cystic fibrosis screening result returned an abnormal positive result showing Patient 1 as a carrier;

23 D. Respondent’s failure to refer Patient 1 and her partner for genetic
24 counseling when both of them tested positive as carriers of cystic fibrosis mutations.

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1 PRAYER

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

4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 69747,
5 issued to Respondent Karen Erika Kunzel, M.D.;

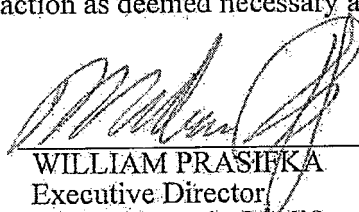
6 2. Revoking, suspending or denying approval of Respondent Karen Erika Kunzel,
7 M.D.'s authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Respondent Karen Erika Kunzel, M.D., to pay the Board the costs of the
9 investigation and enforcement of this case, and if placed on probation, the costs of probation
10 monitoring;

11 4. Ordering Respondent Karen Erika Kunzel, M.D., if placed on probation, to provide
12 patient notification in accordance with Business and Professions Code section 2228.1; and

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

14
15 DATED: September 21, 2022

16 
17 WILLIAM PRASIFKA
18 Executive Director
19 Medical Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant
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