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

In the Matter of the Accusation Against: Anupam Garg, M.D. Physician's and Surgeon's Certificate No. A 87238 Respondent.	Case No. 800-2022-086953

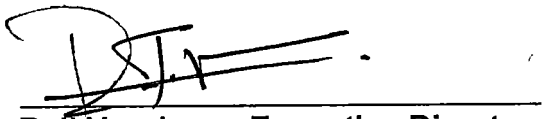
DECISION

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 August 26, 2024.

IT IS SO ORDERED July 9, 2024.

MEDICAL BOARD OF CALIFORNIA



Reji Varghese, Executive Director

ROB BONTA
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **ANUPAM GARG, M.D.** **2918 5th Avenue, Suite 100** **San Diego, CA 92103-5910** **Physician's and Surgeon's Certificate No. A 87238** Respondent.	Case No. 800-2022-086953 OAH No. 2024010240 **STIPULATED SURRENDER OF LICENSE AND DISCIPLINARY ORDER**

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

PARTIES

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Tessa L. Heunis, Deputy Attorney General.

2. Anupam Garg, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq., whose address is: 5440 Trabuco Road, Irvine, CA 92620.

3. On or about May 21, 2004, the Board issued Physician's and Surgeon's Certificate No. A 87238 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2022-086953 and will expire on September 30, 2025, unless renewed.

JURISDICTION

4. On December 5, 2023, Accusation No. 800-2022-086953 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 December 5, 2023. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2022-086953 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2022-086953. Respondent also has carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Surrender of License and Disciplinary Order.

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

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2022-086953 and that his Physician's and Surgeon's Certificate No. A 87238 is therefore subject to discipline.

9. Respondent hereby surrenders his Physician's and Surgeon's Certificate No. A 87238 for the Board's formal acceptance with an effective date of August 26, 2024.

10. Respondent agrees that if he ever petitions for reinstatement of his Physician's and Surgeon's Certificate No. A 87238, all of the charges and allegations contained in Accusation No. 800-2022-086953 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

11. 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 No. A 87238 without further process.

CONTINGENCY

12. 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."

13. 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 87238 without further notice to, or opportunity to be heard by, Respondent.

14. 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.

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

ADDITIONAL PROVISIONS

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

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

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

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 87238, issued to Respondent Anupam Garg, M.D., is surrendered and accepted by the Board with an effective date of August 26, 2024.

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

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2022-086953 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 $xxx 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. 800-2022-086953 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.

7. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $28,640.75 (twenty-eight thousand six hundred and forty dollars and 75 cents) prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate A 87238. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 6/21/2024

ANUPAM GARG, M.D.
Respondent

I have read and fully discussed with Respondent Anupam Garg, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: June 21, 2024

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: June 25, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

ROB BONTA
Attorney General of California
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **ANUPAM GARG, M.D.** **2918 5th Ave., Ste. 100** **San Diego, CA 92103-5910** **Physician's and Surgeon's Certificate No. A 87238,** Respondent.	Case No. 800-2022-086953 **ACCUSATION**

PARTIES

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

2. On or about May 21, 2004, the Medical Board issued Physician's and Surgeon's Certificate Number A 87238 to Anupam Garg, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 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 2004 of the Code states:

> The board shall have the responsibility for the following:
>
> (a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.
>
> (b) The administration and hearing of disciplinary actions.
>
> (c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.
>
> (d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.
>
> (e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.
>
> ...

5. Section 2220 of the Code states:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes ...

6. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

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

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

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

STATUTORY PROVISIONS

7. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. 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.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or 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.

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

(2) When the standard of care requires a change in the diagnosis, act, or omission that 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 applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

...

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

...

8. 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. ...

9. Section 2228.1 of the Code, states:

(a) On and after July 1, 2019, ... the board ... 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.

...

(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.

...

10. 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.)

COST RECOVERY

11. 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.

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FACTUAL ALLEGATIONS

12. At all relevant times, Respondent was a board-certified obstetrician and gynecologist.

Office Visits:

13. On or about December 1, 2021, Patient A[1] presented to Respondent for an annual gynecological exam. Respondent conducted a breast exam and a "Pap smear,"[2] and discussed birth control methods with Patient A. Patient A elected to have an intrauterine device (IUD[3]) inserted.

14. On or about December 8, 2021, Respondent inserted an IUD in Patient A.

15. On or about January 10, 2022, Patient A returned to Respondent for follow-up on the IUD placement. A further follow-up appointment was scheduled for February 14, 2022.

16. At each of the three (3) office visits, there was no chaperone present nor was Patient A offered one.

Allegations of Sexual Misconduct:

17. On the evening of December 8, 2021, Respondent texted Patient A, asking how she was doing after the procedure. Patient A responded with appreciation, and a text conversation followed, during which Respondent admitted he was "looking forward to seeing [Patient A] again!!"

18. On or about Saturday, December 18, 2021, Patient A texted Respondent with questions regarding symptoms she was experiencing with the IUD. A brief text conversation followed, regarding the IUD symptoms.

19. On the evening of January 10, 2022, after Patient A's office visit, Respondent texted Patient A:

"Great to see you again!!! Hang in there – hopefully this is all over soon!"

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[1] The identity of the patient is known to all parties but not disclosed to protect her privacy.

[2] The Papanicolaou test (or "Pap smear") is a method of cervical screening used to detect potentially precancerous and cancerous processes in the cervix or colon. Abnormal findings are often followed up by more sensitive diagnostic procedures and, if warranted, interventions that aim to prevent progression to cervical cancer.

[3] An intrauterine device (IUD) is a form of birth control that is inserted in the uterus.

A text conversation between Respondent and Patient A ensued, which became romantic and personal. with sexual innuendos. During this conversation, Patient A disclosed that her next office visit would be on Valentine's Day (February 14), and Respondent responded:

> "Lol really!!!
> Perfect!!!!
> Not the best place for a valentines date but I'll take it!!"

20. On or about January 14, 2022, Respondent and Patient A engaged in a lengthy conversation by text message and exchanged photos of themselves. The conversation included sexual references.

21. On or about January 15, 2022, and January 16, 2022, Respondent and Patient A continued and intensified their sexually-charged and personal text conversation.

22. On or about January 20, 2022, Respondent contacted Patient A. She did not respond.

23. On or about January 31, 2022, Respondent again contacted Patient A, asking if she was "doing ok??"

24. The following day, Patient A texted Respondent that what they were doing was inappropriate and she could "no longer engage with [him]."

FIRST CAUSE FOR DISCIPLINE

(Sexual Abuse, Misconduct or Relations)

25. Respondent is subject to disciplinary action under section 726 of the Code, in that he committed an act or acts of sexual abuse, misconduct or relations with Patient A, as more fully described in paragraphs 12 through 24, above, which are hereby incorporated by reference as if fully set forth herein.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

26. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed an act or acts of gross negligence in his care and treatment of Patient A by engaging in a sexual texting relationship with Patient A and/or sending pictures of himself to Patient A, as more fully described in paragraphs 12 through 24, above, which are hereby incorporated by reference as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

27. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged hereinafter:

28. Paragraphs 12 through 26, above, are hereby incorporated by reference and realleged as if fully set forth herein.

29. Respondent failed to have a chaperone present at Patient A's visits on December 1, 2021, and/or December 8, 2021, and/or January 10, 2022.

30. Respondent contacted Patient A by text message after the routine office visit on or about January 10, 2022.

FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

31. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 12 through 30, above, which are hereby incorporated by reference as if fully set forth herein.

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 Number A 87238, issued to Respondent Anupam Garg, M.D.;

2. Revoking, suspending or denying approval of Respondent Anupam Garg, M.D.'s authority to supervise physician assistants and advanced practice nurses;

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3. Ordering Respondent Anupam Garg, 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. Ordering Respondent Anupam Garg, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: DEC 0 5 2023

JENNA JONES FOR
REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant