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

In the Matter of the Accusation Against:

Michael Anthony Palmer, M.D.

Physician's & Surgeon's Certificate No. G 65321

Case No. 800-2021-074226

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 February 7, 2025.

IT IS SO ORDERED: January 9, 2025.

MEDICAL BOARD OF CALIFORNIA

Richard E. Thorp, M.D., Chair

Panel B

	il			
1	ROB BONTA			
2	Attorney General of California MACHAELA M. MINGARDI			
3	Supervising Deputy Attorney General CAITLIN ROSS Deputy Attorney General			
4	State Bar No. 271651 455 Golden Gate Avenue, Suite 11000			
5	San Francisco, CA 94102-7004 Telephone: (415) 510-3615			
6	Facsimile: (415) 703-5480 E-mail: Caitlin.Ross@doj.ca.gov			
7	Attorneys for Complainant			
8	PEROP	· ·		
9	BEFORE THE MEDICAL BOARD OF CALIFORNIA			
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
11	STATE OF C.	ALIFORNIA		
12				
13	In the Matter of the Accusation Against:	Case No. 800-2021-074226		
14	MICHAEL ANTHONY PALMER, M.D. 2321 Harrison Avenue	OAH No. 2024020635		
15	Eureka, CA 95501-3216	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER		
16	Physician's and Surgeon's Certificate No. G 65321	DISCIPLINARI ORDER		
	Respondent.			
17				
18				
19				
20	IT IS HEREBY STIPULATED AND AGR	EED by and between the parties to the above-		
21	entitled proceedings that the following matters are	e true:		
22	PAR	TIES		
23				
24	California (Board). He brought this action solely in his official capacity and is represented in this			
25				
26	matter by Rob Bonta, Attorney General of the State of California, by Caitlin Ross, Deputy			
27	Attorney General.	:		
28				
		1		
	1	•		

- 2. Respondent Michael Anthony Palmer, M.D. (Respondent) is represented in this proceeding by attorney Ian A. Scharg, Esq., whose address is: 400 University Avenue Sacramento, CA 95825-6502.
- 3. On or about March 20, 1989, the Board issued Physician's and Surgeon's Certificate No. G 65321 to Michael Anthony Palmer, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-074226, and will expire on July 31, 2026, unless renewed.

JURISDICTION

- 4. Accusation No. 800-2021-074226 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 April 24, 2023. Respondent filed his Notice of Defense contesting the Accusation.
- 5. A copy of Accusation No. 800-2021-074226 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2021-074226. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 7. 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.
- 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

 $\parallel 1/1/$.

CULPABILITY

- 9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2021-074226, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.
- 10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2021-074226, a true and correct copy of which is attached hereto as Exhibit A, and that Respondent hereby gives up his right to contest those charges, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G 65321 to disciplinary action.
- 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

12. 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

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

- 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreement of the parties in this above-entitled matter.
- 15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 16. 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

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 65321 issued to Respondent MICHAEL ANTHONY PALMER, M.D., shall be and hereby is publicly reprimanded pursuant to California Business and Professions Code, section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's conduct as set forth in the Accusation No. 800-2021-074226, is as follows:

In December of 2020, Respondent failed to act in a professional manner with a colleague during preparation for a surgical procedure.

B. IT IS FURTHER ORDERED:

1. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the effective date of this Decision, Respondent shall enroll in a professional boundaries program approved in advance by the Board or its designee. Respondent, at the program's discretion, shall undergo and complete the program's assessment of Respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems relevant. The program shall evaluate Respondent at the end of the training and the program shall provide any data from the assessment and training as well as the results of

the evaluation to the Board or its designee.

Failure to complete the entire program not later than six (6) months after Respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on Respondent's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with program recommendations. At the completion of the program, Respondent shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The program has the authority to determine whether or not Respondent successfully completed the program.

A professional boundaries course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

If Respondent fails to complete the program within the designated time period, Respondent shall cease the practice of medicine within three (3) calendar days after being notified by the Board or its designee that Respondent failed to complete the program.

- 2. Failure to enroll, participate in, or successfully complete the prescribing practices course within the designated time period shall constitute unprofessional conduct and grounds for further disciplinary action.
- 3. <u>FUTURE ADMISSIONS CLAUSE</u>. 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 action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2021-074226 shall be deemed to be true, correct, and admitted by

1	Decision and Order of the Medical Board of California.		
2			
3	DATED:		
4	MICHAEL ANTHONY PALMER, M.D. Respondent		
5	I have read and fully discussed with Respondent Michael Anthony Palmer, M.D. the terms		
6	and conditions and other matters contained in the above Stipulated Settlement and Disciplinary		
7	Order. I approve its form and content.		
8	DATED:		
9	IAN A. SCHARG, ESQ. Attorney for Respondent		
10			
11	<u>ENDORSEMENT</u>		
12	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
13	submitted for consideration by the Medical Board of California.		
14			
15	DATED: Respectfully submitted,		
16	ROB BONTA Attorney General of California		
17	Machaela M. Mingardi Supervising Deputy Attorney General		
18			
19	CAITLIN ROSS		
20	Deputy Attorney General Attorneys for Complainant		
21			
22			
23			
24	SF2022402147 / 44336868.docx		
25			
26	·		
27			
28			
	7		

1	Decision and Order of the Medical Board of California.		
2			
3	DATED: 19/3/24 Mbh		
4	MICHAEL ANTHONY PALMER, M.D. Respondent		
5	Phave read and fully discussed with Respondent Michael Anthony Palmer, M.D. the term:		
6	and conditions and other matters contained in the above Stipulated Settlement and Disciplinary		
7	Order. Lapprove its form and content.		
8	DATED: 10/3/2024 San A. Scharg IAN A. SCHARG, ESQ.		
9	IAN A. SCHARG, ESQ. Attorney for Respondent		
10			
!!	ENDORSEMENT		
12	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
13	submitted for consideration by the Medical Board of California.		
14	DATED: 10-3-24 Respectfully submitted.		
15	The state of the s		
16	ROB BONTA Attorney General of California		
17	MACHAELA M. MINGARDI Supervising/Deputy Atorney General		
18			
19	CAPILIN ROSS		
20	Deputy Attorney General Attorneys for Complainant		
21			
22			
23			
24	SF2022402147 / 44336868.doex		
25			
26			
27			
28			
- 11	7		

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (800-2021-074226)

1	ROB BONTA		
2	Attorney General of California MARY CAIN-SIMON		
3	Supervising Deputy Attorney General State Bar No. 113083	•	
4	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004		
5	Telephone: (415) 510-3884 Facsimile: (415) 703-5480		
6	Attorneys for Complainant	,	
7	BEEO	יונית יו כ	
8	BEFORE THE MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
9			
10			
11	In the Matter of the Accusation Against:	Case No. 800-2021-074226	
12	Michael Anthony Palmer, M.D.	ACCUSATION	
13	2321 Harrison Avenue Eureka, CA 95501		
14	Physician's and Surgeon' Certificate No. G 65321,		
15 16	Respondent		
17		_	
18	,		
19	PAR	TIES	
20	Reji Varghese (Complainant) brings	this Accusation solely in his official capacity as	
21	the Interim Executive Director of the Medical B	oard of California, Department of Consumer	
22	Affairs (Board).		
23	2. On March 20, 1989, the Medical Board issued Physician's and Surgeon' Certificate		
24	Number G 65321 to Michael Anthony Palmer, M.D. (Respondent). The Physician's and Surgeor		
25	Certificate was in full force and effect at all times relevant to the charges brought herein and will		
26	expire on July 31, 2024, unless renewed.		
27	JURISDICTION		
28		•	
	1		

(MICHAEL ANTHONY PALMER, M.D.) ACCUSATION NO. 800-2021-074226

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 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 including, but not limited to:

- (a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.
- (b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.
- (c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

5. 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.
- (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

Sexual harassment can be defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment in the practice of medicine is unethical. Sexual harassment exploits inequalities in status and power, abuses the rights and trust of those who are subjected to such conduct; interferes with an individual's work performance, and may influence or be perceived as influencing professional advancement in a manner unrelated to clinical or academic performance harm professional working relationships, and create an intimidating or hostile work environment; and is likely to jeopardize patient care. Sexual relationships between medical supervisors and trainees are not acceptable, even if consensual. The supervisory role should be eliminated if the parties wish to pursue their relationship. Physicians should promote and adhere to strict sexual harassment policies in medical workplaces. Physicians who participate in grievance committees should be broadly representative with respect to gender identity or sexual orientation, profession, and employment status, have the power to enforce harassment policies, and be accessible to the persons they are meant to serve.

COST RECOVERY

8. Section 125.3 of the Code states:

- (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary 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 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.
- (b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.
- (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs 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. 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.
- (d) The administrative law judge shall make a proposed finding of the amount of reasonable 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 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 pursuant to subdivision (a).
- (e) If an order for recovery of costs is made and timely payment is not made as directed in 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 licensee to pay costs.
- (f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

- (g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.
- (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.
- (h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.
- (i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.
- (j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

- 9. Respondent Michael Anthony Palmer, M.D. is subject to disciplinary action under sections 2227 and 2234 of the Code, in that he engaged in conduct that breached the rules or ethical code of the medical profession or which was unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged hereinafter.
- 10. Respondent is a surgeon. He practices in Northern California, including Eureka California.
- 11. At around noon on December 31, 2020, Respondent and others were preparing for Respondent to perform surgery on a patient who required excision of a mass in his arm. A female surgical technician assisted Respondent with gowning and gloving for the surgery, during which time Respondent and other persons in the room engaged in conversation about topics including Respondent's wine collection. After Respondent seated himself for the surgical procedure, and while the surgical technician was standing close by to him preparing for the beginning of the

¹ The identities of the surgical technician and others in the room are known to Respondent, and will be more particularly provided in discovery.

procedure, Respondent placed his hand on the surgical technician's thigh, then ran his hand up and down, saying, words to the effect, that he was always thinking about her with his other brain.

- 12. Respondent's actions in touching the surgical technician were non-consensual. The surgical technician was distressed and upset during the patient's procedure, then following the procedure, promptly reported Respondent's conduct to the hospital staff. The surgical technician required time off work as a result of the incident. The surgical technician moreover filed a police report and a complaint with the Medical Board of California.
- 13. The standard of care in surgery and professional conduct for physicians and surgeons when in an operating suite for a procedure requires cordial, respectful and ethical behavior, without sexual innuendos directed to staff, or inappropriate, non-consensual touching of others present for the purpose of the surgical procedure. Respondent's conduct, as described in paragraphs 10-12, represent unprofessional conduct.

DISCIPLINARY CONSIDERATIONS

14. To determine the degree of discipline, if any, to be imposed on Respondent Michael Anthony Palmer, M.D., Complainant alleges that on around June 15, 2016, in a prior disciplinary action titled In the Matter of the Accusation Against Michael Anthony Palmer, M.D. before the Medical Board of California, in Case Number 12-2021-218642, Respondent's license was reprimanded and discipline imposed for failure to maintain adequate documentation of procedures for two patients. That decision is now final and is 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' Certificate Number G 65321, issued to Michael Anthony Palmer, M.D.;
- 2. Revoking, suspending or denying approval of Michael Anthony Palmer, M.D.'s authority to supervise physician technicians and advanced practice nurses;