

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

In the Matter of the First Amended
Accusation Against:

Theresa Colosi, M.D.

Physician's & Surgeon's
Certificate No A 66895

Petitioner.

Case No.: 800-2020-063591

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed Theresa Colosi, for the reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on March 7, 2025.

IT IS SO ORDERED: March 7, 2025

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

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

**In the Matter of the First Amended
Accusation Against:**

Theresa Colosi, M.D.

**Physician's & Surgeon's
Certificate No. A 66895**

Respondent.

Case No. 800-2020-063591

ORDER GRANTING STAY

(Government Code Section 11521)

Respondent, Theresa Colosi, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of January 24, 2025, at 5:00 p.m.

Execution is stayed until March 7, 2025, at 5:00 p.m.

This Stay is granted solely for the purpose of allowing the Board time to review and consider the Petition for Reconsideration.

DATED: February 19, 2025



Reji Varghese
Executive Director
Medical Board of California

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

**In the Matter of the First Amended
Accusation Against:**

Theresa Colosi, M.D.

**Physician's & Surgeon's
Certificate No. A 66895**

Respondent.

Case No. 800-2020-063591

ORDER GRANTING STAY

**(Government Code Section
11521)**

Respondent, Theresa Colosi M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of January 24, 2025, at 5:00 p.m.

Execution is stayed until February 24, 2025, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Respondent to file a Petition for Reconsideration.

DATED: January 14, 2025

JEANNA JONES FOR
Reji Varghese
Executive Director
Medical Board of California

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

**In the Matter of the First Amended
Accusation Against:**

Theresa Colosi, M.D.

**Physician's and Surgeon's
Certificate No. A 66895**

Case No.: 800-2020-063591

Respondent.

DECISION

The attached Proposed Decision 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 January 24, 2025.

IT IS SO ORDERED: December 26, 2024.

MEDICAL BOARD OF CALIFORNIA

Michelle A. Bholat, MD

**Michelle Anne Bholat, M.D., Chair
Panel A**

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

In the Matter of the First Amended Accusation Against:

THERESA COLOSI, M.D., Respondent.

Agency Case No. 800-2020-063591

OAH No. 2024040593

PROPOSED DECISION

Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on September 23, 2024, by videoconference.

Complainant was represented by Rebecca L. Smith, Deputy Attorney General. Respondent Theresa Colosi, M.D., appeared and represented herself.

Prior to the hearing, Complainant moved for a protective order, to seal some exhibits. During the hearing, the ALJ indicated he would grant the order. A separate written order shall be issued.

Evidence was received and the record closed, and the matter was submitted for decision on the hearing date. However, on September 24, 2024, Respondent submitted to OAH an order issued by the Court of Appeal, Second Appellate District, Division Six

(Court of Appeal) which relieved her of default for an untimely notice of appeal and authorized her to file a Notice of Appeal. On October 4, 2024, Respondent submitted to OAH a copy of her Notice of Appeal filed with the Superior Court of California, County of Santa Barbara on October 1, 2024.

Thereafter, on October 22, 2024, the ALJ issued an order re-opening the record so that the parties could submit briefs on the effect, if any, of Respondent's appeal in the criminal case that, in part, underlies this matter.

Respondent submitted her brief on October 28, 2024. Complainant submitted his brief on November 4, 2024.

The order of the Court of Appeal, relieving Respondent of her default is received as Exhibit A, and the Notice of Appeal is received as Exhibit B. Respondent's brief is marked for identification as Exhibit C. Complainant's brief is marked for identification as Exhibit 24.

The record again closed on November 4, 2024. Thereafter, on November 12, 2024, Respondent submitted a reply brief, and again proffered the declaration of Nancy Kaser-Boyd, Ph.D. The documents were not received, as no reply brief was authorized, and the testimony of Dr. Kaser-Boyd was excluded by a ruling on a motion in limine brought by Complainant.

The ALJ hereby makes his factual findings, legal conclusions, and order, as follows.

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FACTUAL FINDINGS

The Parties and Jurisdiction

1. Complainant Reji Varghese filed and maintained the Accusation and First Amended Accusation (FAA) in this matter while acting in his official capacity as Interim Executive Director, and later as Executive Director, of the Medical Board of California (Board).

2. Respondent holds Physician's and Surgeon's Certificate Number A 66895 (license), which has an expiration date of August 31, 2026. Respondent's certificate was first issued to her by the Board on November 6, 1998.

3. On or about December 25, 2022, Respondent signed and submitted a Notice of Defense to the Accusation. By operation of law, she is deemed to have controverted the allegations of the FAA. (Gov. Code, § 11507.)

4. All jurisdictional requirements have been met.

Respondent's Criminal Conviction

5. On April 7, 2023, in the Superior Court of California, County of Santa Barbara, Respondent was convicted of assault with the use of a deadly and dangerous weapon in violation of Penal Code section 245, subdivision (a)(1), with the special allegation that she had personally inflicted great bodily injury within the meaning of Penal Code section 12022.7, subdivision (a). The conviction was based on Respondent's plea of guilty, and she was thereby convicted of a violent felony.

6. In connection with her plea of guilty, which was part of a plea agreement, Respondent admitted, in writing, that "on December 8, 2019, in Santa Barbara County,

I hit [C.H.] in the head multiple times with a metal cannister. I personally inflicted great bodily injury on Ms. [H]." (Ex. 18, p. A142.)

7. Respondent's sentencing did not occur until March 12, 2024; the delay in sentencing was part of the plea agreement. (See Ex. 18, p. A139.) At that later date, Respondent was deemed "sentenced to state prison" but that was treated as a "paper commitment." (Ex. 20, p. A148.) Further, the court sentenced Respondent to state prison for five years, with credit for 1,825 days served in county jail, 1,587 actual days and 238 days credit for good time. After her sentence was pronounced, Respondent was released from custody and placed on parole for three years. (See Ex. 18, p. A140.) (After her arrest, Respondent had been denied bail.) She was ordered to make restitution to her son, the boy's father, and the father's girlfriend (sometimes referred to in court papers and police reports as "stepmother"), in the amount of \$18,554.06. (Ex. 19, p. A147.) Respondent was ordered to pay restitution of approximately \$6,500 to the California Victims Compensation Board for two claims, one claim apparently made by the victim of the assault. (*Ibid.*)

8. The facts and circumstances of the crime are as follows: On the morning of December 8, 2019, Respondent met her son and C.H., a woman who was a visitation monitor at a location in the Santa Barbara area. The presence of the visitation monitor was a court requirement for Respondent's visitation with her son, then 12 years old; the Superior Court, Santa Clara County, had previously restrained Respondent from contact with her son. (Ex. 11.)

9. The three went to a bowling alley in Goleta, travelling in Respondent's car. When they got out of Respondent's car, Respondent told her son to get back in the car, and she told the monitor, C.H., she was not going to participate in supervised visits any longer. C.H. told the boy to go into the bowling alley. Respondent had a

metal gas cannister, for a SodaStream device, and Respondent hit C.H. in the head with it more than once, including on C.H.'s face/forehead, and the side of her head. C.H. yelled at the boy to run into the bowling alley to get help and call 911, and C.H. managed to run into the bowling alley as well. Respondent drove away in her car.

10. Santa Barbara County Sheriff's deputies were called to the scene. One deputy observed a large amount of blood at the entrance to the bowling alley and on a walkway that led to a room where he found the victim, C.H., who was holding a towel to her face, and he saw she was covered in blood. The deputy noted that C.H., when recounting her assault and the events leading up to it, was "dazed, appeared confused and was slurring her speech." (Ex. 4, p. A42.)

11. Photos of the victim, taken at a hospital after the attack, show she suffered a cut running vertically from approximately the bridge of her nose, curving up and over her left eye. (Ex. 9, pp. A86, A89.) A second cut behind her hairline on the right side of her head is also shown, as are at least six surgical staples used to close that wound. (*Id.*, pp. A87, A90.) Page A91 of Exhibit 9 shows that approximately 20 stitches were needed to close the wound on the victim's face; that photo clearly shows a large bruise under C.H.'s left eye.

12. Respondent left the bowling alley and went to Lompoc, where she had previously chartered a private plane for a trip to Montana for herself and her son, under aliases. She was flown to Glacier International Airport, near Whitefish, Montana. Santa Barbara Sheriff's deputies obtained an arrest warrant, on charges of attempted homicide and attempted child abduction, and they contacted Whitefish Police Department (WPD) officers, seeking that department's assistance. WPD officers confirmed the warrant, and they began an investigation. They located Respondent as she was leaving a friend's house in the area. On December 11, 2019, the police

arrested Respondent on the warrant issued in Santa Barbara. WPD officers later reported to the Santa Barbara deputies that when Respondent was arrested, she was in possession of two U.S. passports, flight plans, and \$4,000. (Ex 4, p. A57.)

13. The WPD officers interviewed Respondent after reading her *Miranda* rights, which Respondent stated she understood. She was not especially forthcoming but did state she had been involved in a drawn-out custody battle over her son, which Respondent said had created an intolerable situation where she could not see the boy. She told one of the officers that the California justice system was corrupt and that her case was not being handled impartially. (Ex. 10, p. A97.) When the officer raised the issue of the supervised visit of December 8, 2019, Respondent would not discuss it, except to say the "court appointed supervisor was a 'real piece of work.'" (*Ibid.*) Respondent claimed that she was on her way to the airport to return to Santa Barbara when she was arrested.

14. On December 11, 2019, WPD officers executed a search warrant at the house where Respondent had stayed. They recovered five shredded documents, a hat, and two envelopes addressed to the homeowners from Respondent.

15. On December 19, 2019, Respondent was returned to Santa Barbara by Santa Barbara County Sheriff's officers. (Ex. 4, p. A67.)

16. On December 27, 2019, the owners of the house where Respondent had stayed summoned WPD officers to the house, because they had found property belonging to Respondent in their home. (They had not been at the house when Respondent, who knew how to access the house, was there.) When WPD officers arrived, the homeowners took them to an upstairs bedroom that Respondent had used. There the police found three black bags and a package that had been mailed to

Respondent. Among other things, they found cashiers' checks worth \$50,000, credit cards, and over \$60,000 in cash. The officers took the property to the police station and secured it. (Ex. 10, pp. A99-A100.)

17. On January 2, 2020, two officers inventoried the property that had been retrieved on December 27, 2019, and they found a total of \$1,413,854.33. The bulk of the money—\$1,295,454.33—was in the form of cashiers' checks found in an envelope. The balance of \$118,400 was in the form of \$100 bills and other cashiers' checks. (Ex. 10, p. A101.)

The Hearing

18. Respondent appeared at the hearing. She declined to testify, citing her rights under the Fifth Amendment, noting she was attempting to appeal the criminal conviction. She did make some statements, however, as assertions or argument.

19. Respondent argued that she is retired, not practicing medicine, and therefor does not pose a risk of harm to anyone. She claimed she is indigent. She asserted that the Superior Court, early in the criminal case, denied a motion made by the Board pursuant to Penal Code section 23, to bar her from practicing medicine during the pendency of the criminal proceeding, claiming the judge said she was not a risk to anyone. Complainant's attorney asserted the motion was not granted due to Respondent's no bail status. Respondent also argued that her misconduct was not related to her practice of medicine and that the Board's filing of this action was not necessary. Respondent also made statements that tended to minimize C.H.'s injuries.

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Post Hearing—Respondent's Appeal

20. As noted in the preamble, the day after the hearing in this matter, the Court of Appeal allowed Respondent to file an appeal in the criminal case. The Notice of Appeal, signed by an attorney appointed by the Court of Appeal to file the appeal, states "this appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea." (Ex. B.)

Costs

21. The Board has incurred costs of \$32,931.57, an amount reasonable on its face.

LEGAL CONCLUSIONS

Jurisdiction and Standard of Proof

1. Jurisdiction to proceed in this matter pursuant to Business and Professions Code sections 2004, 2020, and 2227 was established, based on Factual Findings 1 through 4. (Further statutory references shall be to the Business and Professions Code unless otherwise noted.)

2. The standard (as opposed to the burden) of proof in this proceeding is that of clear and convincing evidence, to a reasonable certainty. (*Ettinger v. Bd. of Med. Quality Assurance* (1982) 135 Cal.App.3d 853.) Complainant was therefore obligated to adduce evidence that was clear, explicit, and unequivocal—so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. (*In Re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

Substantial Relationship of Respondent's Acts

3. Complainant alleges that Respondent's conduct is substantially related to the duties, functions, and qualifications of a physician and surgeon, citing California Code of Regulations, title 16, (CCR) section 1360.

CCR section 1360 states:

(a) For the purposes of denial, suspension or revocation of a license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes, professional misconduct, or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of state or federal law governing the applicant's or licensee's professional practice.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the crime;

(2) The number of years elapsed since the date of the crime;
and

(3) The nature and duties of the profession.

4. As to the nature and gravity of Respondent's crime, it is serious. The photos of the victim make it clear she was seriously injured, and it is fairly inferred her injuries could have been worse. Five years have elapsed since the assault occurred. The nature and duties of the medical profession calls for a physician to heal, to do no harm, and to display good judgment. Here Respondent caused great bodily harm to an individual so that Respondent could avoid court-ordered supervision of her visitation with her son. Respondent's violent attack upon an unsuspecting person, in front of her 12-year-old child, is antithetical to a physician's role as a healer. Her criminal act evidences present or potential unfitness to perform the functions authorized by her certificate in a manner consistent with the public health, safety, or welfare.

The First Cause for Discipline—Conviction of a Crime

5. Complainant's First Cause for Discipline asserts that Respondent is liable for license discipline because she was convicted of a crime that is substantially related to the duties, qualifications, and functions of a physician and surgeon. Complainant relies on sections 490, 2234, subdivision (a), 2236, subdivision (a), and CCR section 1360.

6. As of the day of the hearing, cause existed to discipline Respondent's license because of her criminal conviction for a violent felony. Her plea of guilty to a violent felony is a conviction under sections 490 and 2236. Despite Respondent's

arguments at hearing, her crime is "substantially related" as set forth in Legal Conclusion 4.

7. Under section 2236.1, subdivision (d), discipline may be ordered when the time for appeal from the criminal conviction has elapsed, or that conviction has been upheld on appeal. This is essentially a rule requiring that the judgment of conviction be final. At the time of the hearing in this matter, the time to appeal had elapsed, and thus discipline could be ordered based on Respondent's criminal conviction; at that point it was final. However, the circumstances have changed with the Court of Appeals' order allowing Respondent to file a Notice of Appeal and the filing of a Notice of Appeal.

8. Although it appears from the Notice of Appeal that Respondent is appealing her sentence, and not her conviction, the pendency of her appeal bars discipline for the conviction at this time, pursuant to section 2236.1, subdivision (d).

The Second Cause for Discipline—Unprofessional Conduct—Dishonest and Corrupt Acts

9. As a second cause for discipline, Complainant alleges that Respondent engaged in a dishonest or corrupt act that is substantially related to the duties, functions, and qualifications of a physician and surgeon, in violation of section 2234, subdivision (e).

10. Here, to avoid court-ordered supervised visitation with her son, Respondent beat the court-ordered visitation supervisor with a metal canister. There is evidence this was part of a pre-meditated scheme, given Respondent's charter of a flight from California under an assumed name, with over 1.4 million dollars in hand; further Respondent chartered the flight to Montana before she beat the visitation

monitor. And, Respondent's statement to the WPD officers that the victim was "a piece of work" indicates Respondent acted with malice. This violent effort to avoid the Superior Court's supervision order is immoral conduct of the type that involves corruption. It is substantially related to the duties, qualifications, and functions of a physician.

11. Respondent's certificate is subject to discipline pursuant to section 2234, subdivision (e), for the commission of a corrupt act substantially related to the duties, functions, and qualifications of a physician and surgeon.

Third Cause for Discipline—Unprofessional Conduct

12. Complainant alleged that Respondent engaged in conduct that breaches the rules or ethical code of the medical profession or conduct that is unbecoming of a member of the medical profession, and which demonstrates an unfitness to practice medicine, citing section 2234, subdivision (a) and CCR section 1360.

13. Section 2234 states, in part:

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.

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14. It can be seen that the allegations in the FAA, for the Third Cause for Discipline, do not speak to violating or attempting to violate, or assisting in the violation of "this chapter." Instead, it is alleged Respondent engaged in conduct that breaches the rules or ethical code of the medical profession or conduct that is unbecoming of a member of the medical profession. This sounds in what is sometimes referred to as "general unprofessional conduct."

15. In *Shea v. Board of Medical Examiners*, (1978) 81 Cal.App.3d 564, the Board initiated disciplinary proceedings against a physician for "unprofessional conduct" without specifying any particular subsection of the enabling statute. That statute, former Code section 2361, stated that "unprofessional conduct includes, but is not limited to" various enumerated acts. The Court of Appeal in *Shea* held that while an overly broad connotation cannot be given to the term "unprofessional conduct," and that it must relate to conduct indicating an unfitness to practice, the meaning was not confined to those matters specifically set forth in the statute. Instead, "[u]nprofessional conduct is that conduct which breaches the rules or ethical code of a profession, or conduct which is unbecoming a member in good standing of a profession." (81 Cal.App.3d at 575.)

16. Plainly, an unprovoked attack with a deadly weapon on an unsuspecting person who is performing a court-mandated duty breaches the rules or ethical code of the medical profession, and is unbecoming of a member in good standing. Respondent has engaged in general unprofessional conduct and is subject to discipline pursuant to section 2234.

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Costs

17. The Board is entitled to recover its costs of enforcement pursuant to section 125.3, based on Legal Conclusions 5 through 16. The reasonable amount of those costs is \$32,931.57, based on Factual Finding 21.

18. In light of the order that follows, and Respondent's claim of indigence, no costs will be ordered to be paid at this time. However, should Respondent seek reinstatement, payment of the costs—\$32,931.57—will be required as a condition of reinstatement; such costs may be paid on an installment basis approved by the Board, in its discretion.

Disposition

19. The purpose of proceedings of this type is to protect the public, and not to punish an errant licensee. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476.) Public protection is the Board's paramount duty. (§ 2229, subd. (a).)

20. Respondent appears unrepentant, minimizing her victim's injuries. She provided no evidence of rehabilitation. She remains on parole until March 2027. In all the circumstances, Respondent's certificate should be revoked.

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ORDER

Physician's and Surgeon's Certificate A 66895, issued to Theresa Colosi, M.D., is hereby revoked. If she later seeks reinstatement of her certificate, payment to the Board its costs in the amount of \$32,931.57 will be a condition of reinstatement. The Board in its discretion may accept installment payments.

DATE: **12/03/2024**



JOSEPH D. MONTOYA

Administrative Law Judge

Office of Administrative Hearings