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

|    |  |                                       |
|----|--|---------------------------------------|
| 11 | In the Matter of the Accusation Against:   | Case No. 800-2023-094573              |
| 12 | <b>DAVID EARL SMOCK, M.D.</b><br><b>6360 E 1570 Rd</b><br><b>Jerico Springs, MO 64756-8206</b> | <b>DEFAULT DECISION<br/>AND ORDER</b> |
| 13 |  |                                       |
| 14 | <b>Physician's &amp; Surgeon's Certificate No.</b><br><b>A 54922</b>                           | [Gov. Code, §11520]                   |
| 15 |  |                                       |
|    |  | Respondent.                           |

## **FINDINGS OF FACT**

19       1. On or about June 19, 2025, Complainant Reji Varghese, in his official capacity as the  
20 Executive Director of the Medical Board of California, Department of Consumer Affairs, filed  
21 Accusation No. 800-2023-094573 against DAVID EARL SMOCK, M.D. (Respondent) before  
22 the Medical Board of California (Board).

23       2. On or about October 4, 1995, the Board issued Physician's & Surgeon's Certificate  
24 No. A 54922 to Respondent. The Physician's & Surgeon's Certificate (Certificate) was in full  
25 force and effect at all times relevant to the charges brought herein. However, on April 3, 2025,  
26 the Board immediately suspended Respondent's license pursuant to Business and Professions

1 Code section 2310, and the Certificate expired on April 30, 2025. (Exhibit Package, Exhibit 1,<sup>1</sup>  
2 Certificate of Licensure.)

3       3. In the fall of 2020, a minor individual disclosed to the Missouri Department of Social  
4 Services, Children's Division, that Respondent had inappropriately touched him at age 13. In  
5 2018, when the minor was 13 years old, he moved into Respondent's home. During a trip,  
6 Respondent instructed the minor to lower his pants and held the minor's penis in his hand. In  
7 December 2021, prosecutors in Cedar and Greene Counties filed felony complaints against  
8 Respondent, charging him with sexual misconduct with a child, statutory sodomy, child  
9 molestation, stalking, and enticement.

10      4. On December 14, 2022, based on the allegations of sexual misconduct, the Missouri  
11 State Board of Registration for the Healing Arts (Missouri Board) filed a complaint and motion  
12 for emergency suspension of Respondent's license before the Administrative Hearing  
13 Commission for the State of Missouri (Missouri Hearing Commission). On December 7, 2023,  
14 following an April 2023 hearing, the Missouri Hearing Commission found that the Missouri  
15 Board had cause to discipline Respondent's Missouri license and ordered that Respondent's  
16 license remain suspended pending a disciplinary hearing before the Missouri Board.

17      5. On September 23, 2024, following a July 25, 2024, meeting to determine the  
18 appropriate level of discipline, the Missouri Board revoked Respondent's license to practice  
19 medicine in Missouri. (Exhibit Package, Exhibit 2: Findings of Fact, Conclusions of Law and  
20 Order of Discipline by the Missouri State Board of Registration for the Healing Arts.)

21      6. There was no report made by Respondent or on his behalf to the Board about the  
22 indictment.

23      7. On April 3, 2025, the Board immediately suspended Respondent's license pursuant to  
24 Business and Professions Code section 2310. (Exhibit Package, Exhibit 3: Out of State  
25 Suspension Order by the Medical Board of California.)

26      8. On or about June 19, 2025, Sharee Woods, an employee of the Complainant Agency,

27  
28      <sup>1</sup> The evidence supporting this Default Decision and Order is submitted herewith as the  
"Exhibit Package."

1 served by Certified Mail a copy of the Accusation No. 800-2023-094573, Statement to  
2 Respondent; Notice of Defense; Request for Discovery; and Discovery Statutes to Respondent's  
3 address of record with the Board, which was and is 6360 E 1570 Rd, Jerico Springs, MO 64756-  
4 8206. (Exhibit Package, Exhibit 4: Accusation, Related Documents, and Declaration of Service.)

5 9. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c).

7 10. On or about July 1, 2025, the aforementioned documents were returned by the U.S.  
8 Postal Service marked "Undeliverable." (Exhibit Package, Exhibit 5: Returned Certified Mail.)

9 11. On or about July 8, 2025, an employee of the Attorney General's Office sent a  
10 Courtesy Notice of Default (Courtesy Notice) to Respondent at his address of record by certified  
11 and U.S. mail. The address of record was and is 6360 E. 1570 Rd, Jerico Springs, MO 64756-  
12 8206. The Courtesy Notice advised Respondent of the service of the Accusation and provided  
13 Respondent with an opportunity to file a Notice of Defense and request relief from default. The  
14 Courtesy Notice included a copy of the Accusation, the Statement to Respondent, a Notice of  
15 Defense, Request for Discovery, and discovery statutes, and it advised Respondent that he was in  
16 default. (Exhibit Package, Exhibit 6: Courtesy Notice of Default.)

17 12. Respondent failed to file a Notice of Defense within 15 days after service of the  
18 Accusation upon him, and therefore, he has waived his right to a hearing on the merits of the  
19 Accusation No. 800-2023-094573.

20 13. On July 9, 2025, an employee of the Attorney General's Office received a document  
21 entitled, "Matter Time Activity by Professional Type," which indicated that the Department of  
22 Justice has billed the Board \$7,114.50 for the time spent working in this matter through June 24,  
23 2025. (Exhibit Package, Exhibit 7: Certification of Prosecution Costs: Declaration of C. Hay-Mie  
24 Cho.)

25 **STATUTORY AUTHORITY**

26 14. Government Code section 11506 states, in pertinent part:

27 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
28 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
of the accusation not expressly admitted. Failure to file a notice of defense shall

constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

15. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

16. Business and Professions Code section 125.3 states, in pertinent part:

(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.

## **DETERMINATION OF ISSUES**

11       1. Based on the foregoing findings of fact, Respondent DAVID EARL SMOCK, M.D.  
12 has subjected his Physician's & Surgeon's Certificate No. A 54922 to discipline.

13       2. A copy of the Accusation and the related documents and Declaration of Service are  
14 attached here as Exhibit 3.

15 || 3. The Board has jurisdiction to adjudicate this case by default.

16       4. Pursuant to its authority under Government Code section 11520, the Board finds that  
17      Respondent is in default. The Board will take action without further hearing, and based on  
18      Respondent's express admissions by way of default and the evidence before it, contained in the  
19      Exhibit Package, finds that the allegations in Accusation No. 800-2023-094573 are true:

20 a. In December 2021, Respondent was charged with sexual misconduct with a  
21 child, statutory sodomy, child molestation, stalking, and enticement in Missouri. On September  
22 23, 2024, the Missouri Board revoked Respondent's license to practice medicine in Missouri due  
23 to his indictment on these charges.

24                   b. There was no report made by Respondent or on behalf to the Board about the  
25 indictment.

26 c. On September 23, 2024, the Missouri Board revoked Respondent's license to  
27 practice medicine in Missouri.

d. Respondent committed unprofessional conduct under Business and Professions

Code sections 141, 802.1, and 2305.

5. Under Business and Professions Code section 125.3, the Board is authorized to order Respondent to pay the Board the reasonable costs of investigation and enforcement of the case prayed for in the Accusation total \$7,114.50,<sup>2</sup> based on the Certification of Costs attached as Exhibit 7.

## ORDER

7 IT IS SO ORDERED that Physician's & Surgeon's Certificate No. A 54922, heretofore  
8 issued to Respondent DAVID EARL SMOCK, M.D., is revoked. Respondent DAVID EARL  
9 SMOCK, M.D., is ordered to pay the Board the costs of the investigation and enforcement of this  
10 case in the amount of \$7,114.50. The filing of bankruptcy by Respondent shall not relieve  
11 Respondent of his responsibility to reimburse the Board for its costs. Respondent's Physician's  
12 and Surgeon's Certificate may not be renewed or reinstated unless all costs ordered under  
13 Business and Professions Code section 125.3 have been paid.

14 If Respondent ever files an application for re-licensure or reinstatement in the State of  
15 California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent  
16 must comply with all the laws, regulations, and procedures for reinstatement of a revoked license  
17 in effect at the time the petition is filed.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
19 written motion requesting that the Decision be vacated and stating the grounds relied on  
20 within seven (7) days after service of the Decision on Respondent. The Board in its discretion  
21 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
22 statute.

23 | //

24 | //

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27 | //

<sup>2</sup> This amount is subject to change due to the pending nature of this matter.

SEP 15 2025

1 This Decision shall become effective at 5:00 p.m. on AUG 29 2025

2 It is so ORDERED \_\_\_\_\_

3 *Will Con for*  
4 REJI VARGHESE, EXECUTIVE DIRECTOR  
5 THE MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

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44751721

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

In the Matter of the Accusation Against: Case No. 800-2023-094573

**DAVID EARL SMOCK, M.D.**  
**6360 E 1570 Rd.**  
**Jerico Springs, MO 64756-8206**

**ACCUSATION**

**Physician's & Surgeon's Certificate**  
**No. A 54922,**

Respondent.

**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 October 4, 1995, the Medical Board issued Physician's & Surgeon's Certificate Number A 54922 to David Earl Smock, M.D. (Respondent). The Physician's & Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and expired on April 30, 2025. The Physician's and Surgeon's Certificate was suspended by the Board on April 3, 2025, pursuant to Business and Professions Code section 2310.

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
2 indicated.

3 4. Section 802.1 of the Code states:

4 (a) (1) A physician and surgeon, osteopathic physician and surgeon, a doctor of  
5 podiatric medicine, and a physician assistant shall report either of the following to the  
entity that issued his or her license:

6 (A) The bringing of an indictment or information charging a felony against the  
licensee.

7 (B) The conviction of the licensee, including any verdict of guilty, or plea of  
guilty or no contest, of any felony or misdemeanor.

8 (2) The report required by this subdivision shall be made in writing within 30  
days of the date of the bringing of the indictment or information or of the conviction.

9 (b) Failure to make a report required by this section shall be a public offense  
10 punishable by a fine not to exceed five thousand dollars (\$5,000).

11 5. Section 2004 of the Code states:

12 The board shall have the responsibility for the following:

13 (a) The enforcement of the disciplinary and criminal provisions of the Medical  
14 Practice Act.

15 (b) The administration and hearing of disciplinary actions.

16 (c) Carrying out disciplinary actions appropriate to findings made by a panel or  
17 an administrative law judge.

18 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion  
19 of disciplinary actions.

20 (e) Reviewing the quality of medical practice carried out by physician and  
21 surgeon certificate holders under the jurisdiction of the board.

22 (f) Approving undergraduate and graduate medical education programs.

23 (g) Approving clinical clerkship and special programs and hospitals for the  
24 programs in subdivision (f).

25 (h) Issuing licenses and certificates under the board's jurisdiction.

26 (i) Administering the board's continuing medical education program.

27 6. Section 2227 of the Code states:

28 (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

1 into a stipulation for disciplinary action with the board, may, in accordance with the  
2 provisions of this chapter:

3 (1) Have his or her license revoked upon order of the board.  
4 (2) Have his or her right to practice suspended for a period not to exceed one  
5 year upon order of the board.  
6 (3) Be placed on probation and be required to pay the costs of probation  
7 monitoring upon order of the board.  
8 (4) Be publicly reprimanded by the board. The public reprimand may include a  
9 requirement that the licensee complete relevant educational courses approved by the  
10 board.  
11 (5) Have any other action taken in relation to discipline as part of an order of  
12 probation, as the board or an administrative law judge may deem proper.

13 (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.

14 7. Section 2228.1 of the Code states:

15 (a) On or 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:

16 (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:

17 (A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

18 (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.

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

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

21 (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

1 does not include any *prima facie* showing or admission of guilt or fact but does  
2 include an express acknowledgment that the disclosure requirements of this section  
3 would serve to protect the public interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 8. Section 2234 of the Code states:

34 The board shall take action against any licensee who is charged with  
35 unprofessional conduct. In addition to other provisions of this article, unprofessional  
36 conduct includes, but is not limited to, the following:

37 (a) Violating or attempting to violate, directly or indirectly, assisting in or  
38 abetting the violation of, or conspiring to violate any provision of this chapter.

39 (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.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

(h) Any action of the licensee, or another person acting on behalf of the licensee, intended to cause their patient or their patient's authorized representative to rescind consent to release the patient's medical records to the board or the Department of Consumer Affairs, Health Quality Investigation Unit.

(i) Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

9. Section 2305 of the Code states:

The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

10. Section 2310 of the Code states:

(a) If a physician and surgeon possesses a license or is otherwise authorized to practice medicine (1) in any state other than California or (2) by any agency of the federal government and that license or authority is suspended or revoked outright and is reported to the National Practitioners Data Bank, the physician and surgeon's certificate shall be suspended automatically for the duration of the suspension or revocation, unless terminated or rescinded as provided in subdivision (c). The division shall notify the physician and surgeon of the license suspension and of his or her right to have the issue of penalty heard as provided in this section.

(b) Upon its own motion or for good cause shown, the division may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the medical profession.

(c) The issue of penalty shall be heard by an administrative law judge from the Medical Quality Panel sitting alone or with a panel of the division, in the discretion of the division. A physician and surgeon may request a hearing on the penalty and that hearing shall be held within 90 days from the date of the request. If the order suspending or revoking the physician and surgeon's license or authority to practice medicine is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Upon the showing to the administrative law judge or panel by the physician and surgeon that the out-of-state action is not a basis for discipline in California, the suspension shall be rescinded.

If an accusation for permanent discipline is not filed within 90 days of the suspension imposed pursuant to this section, the suspension shall automatically terminate.

(d) The record of the proceedings that resulted in the suspension or revocation of the physician and surgeon's license or authority to practice medicine, including a transcript of the testimony therein, may be received in evidence.

(e) This section shall not apply to a physician and surgeon who maintains his or her primary practice in California, as evidenced by having maintained a practice in this state for not less than one year immediately preceding the date of suspension or revocation. Nothing in this section shall preclude a physician's and surgeon's license from being suspended pursuant to any other provision of law.

(f) This section shall not apply to a physician and surgeon whose license has been surrendered whose only discipline is a medical staff disciplinary action at a federal hospital not for medical disciplinary cause or reason as that term is defined in Section 805, or whose revocation or suspension has been stayed, even if the physician and surgeon remains subject to terms of probation or other discipline.

(g) This section shall not apply to a suspension or revocation imposed by a state that is based solely on the prior discipline of the physician and surgeon by another state.

(h) The other provisions of this article setting forth a procedure for the suspension or revocation of a physician and surgeon's certificate shall not apply to summary suspensions issued pursuant to this section. If a summary suspension has been issued pursuant to this section, the physician or surgeon may request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same time as a hearing on the accusation.

## **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

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
2 included in a stipulated settlement.

3 **FACTUAL ALLEGATIONS**

4 12. Respondent was a physician licensed in Missouri to practice medicine on July 15,  
5 2003.

6 13. In the fall of 2020, a minor individual disclosed to the Missouri Department of Social  
7 Services, Children's Division, that Respondent had inappropriately touched him at age 13.  
8 During the years 2013 and 2014, the minor attended a private boarding school, where Respondent  
9 worked as a medical liaison. In the ensuing years, Respondent sought to befriend the minor and  
10 gain his trust by providing gifts, trips, and other benefits. In 2018, when the minor was 13 years  
11 old, he moved into Respondent's home. During a trip, Respondent instructed the minor to lower  
12 his pants and then touched and held the minor's penis in his hand.

13 14. On December 21, 2021, the special prosecutor for Cedar County filed an eight-count  
14 felony complaint against Respondent, alleging sexual misconduct involving a child, first and  
15 second-degree statutory sodomy, fourth degree child molestation, and stalking.

16 15. On December 28, 2021, the Greene County Prosecuting Attorney filed an amended  
17 three-count felony complaint against Respondent, charging Respondent with third-degree child  
18 molestation, second-degree sodomy, and enticement.

19 16. On December 14, 2022, based on the allegations of sexual misconduct, the Missouri  
20 State Board of Registration for the Healing Arts (Missouri Board) filed a complaint and motion  
21 for emergency suspension before the Administrative Hearing Commission for the State of  
22 Missouri (Missouri Hearing Commission). The Missouri Board requested the Missouri Hearing  
23 Commission's determination that probable cause existed to suspend Respondent's license.

24 17. On December 19, 2022, the Missouri Hearing Commission granted the Missouri  
25 Board's motion, finding probable cause for an emergency suspension under sections 334.102.1(2)  
26 and (8) of the Revised Statutes of Missouri on the grounds that Respondent might have engaged  
27 in sexual misconduct with a minor and that such conduct represented a serious danger to the  
28 public.

18. From April 11 to 12, 2023, Respondent appeared at a hearing before the Missouri Hearing Commission.

19. On December 7, 2023, the Missouri Hearing Commission found that the Missouri Board had cause to discipline Respondent's license under sections 334.102.1(1), (2), and (8) and 334.100.2(4) and (5). The Missouri Hearing Commission determined that Respondent had engaged in sexual conduct with a minor patient and ordered that Respondent's license remain suspended pending a disciplinary hearing before the Missouri Board.

8       20. On September 23, 2024, following a July 25, 2024, meeting to determine the  
9 appropriate level of discipline, the Missouri Board revoked Respondent's license to practice  
10 medicine in Missouri.

11        21. There was no report made by Respondent or on his behalf to the Board about the  
12 indictment.

13        22. On April 3, 2025, the Medical Board of California immediately suspended  
14 Respondent's license pursuant to Business and Professions Code section 2310. A true and correct  
15 copy of said order is attached herein as Exhibit A.

## **FIRST CAUSE FOR DISCIPLINE**

### **(Discipline, Restriction, or Limitation Imposed by Another State)**

18 23. Paragraphs 11 through 21 are incorporated by reference as if fully set forth therein.

19       24. By reason of the facts stated in Paragraphs 11 through 21, above, Respondent is  
20 subject to disciplinary action under Code sections 2305 and 141 because on or about September  
21 23, 2024, the Missouri Board revoked Respondent's license to practice medicine in Missouri  
22 based on allegations that he engaged in sexual misconduct with a minor. A true and correct copy  
23 of the Missouri Board's order revoking Respondent's license to practice medicine is attached  
24 herein as Exhibit B.

## **SECOND CAUSE FOR DISCIPLINE**

### **(Failure to Report Indictment within 30 Days)**

27 25. Paragraphs 11 through 21 are incorporated by reference as if fully set forth therein.

26. By reason of the facts stated in Paragraphs 11 through 21, above, Respondent is

subject to disciplinary action under Code section 802.1 because there was no report made by or on behalf of Respondent of the indictment to the Board within 30 days.

## **DISCIPLINE CONSIDERATIONS**

4       27. To determine the degree of discipline, if any, to be imposed on Respondent,  
5 Complainant alleges that on April 3, 2025, Respondent's Physician's and Surgeon's Certificate  
6 Number A 54922 was immediately suspended after receiving notice that Respondent's Missouri  
7 license was suspended on December 19, 2022, and revoked on September 23, 2024. That order is  
8 now final and is incorporated by reference as if fully set forth herein. The suspension imposed  
9 constitutes discipline against Respondent's Physician's and Surgeon's Certificate and is  
10 incorporated herein. (See Exhibit A.)

## **PRAYER**

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

14 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 54922,  
15 issued to Respondent David Earl Smock, M.D.;

16       2. Revoking, suspending or denying approval of Respondent David Earl Smock, M.D.'s  
17 authority to supervise physician assistants and advanced practice nurses;

18       3. Ordering Respondent David Earl Smock, M.D., to pay the Board the costs of the  
19 investigation and enforcement of this case, and if placed on probation, the costs of probation  
20 monitoring;

21       4. Ordering Respondent David Earl Smock, M.D., if placed on probation, to provide  
22 patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: JUN 19 2025

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

## **EXHIBIT A**



# MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

## Executive Office

2005 Evergreen Street, Suite 1200

Sacramento, CA 95815-5401

Phone: (916) 263-2382

Fax: (916) 263-2944

[www.mbc.ca.gov](http://www.mbc.ca.gov)

Gavin Newsom, Governor, State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

April 3, 2025

David Earl Smock, M.D.  
6360 E. 1570 Rd.  
Jerico Springs, MO 64756-8206

### RE: NOTICE OF OUT OF STATE SUSPENSION ORDER

California License: A 54922  
Case Number: 800-2023-094573

Dear Dr. Smock:

California Business and Professions Code section 2310 authorizes the Medical Board of California to immediately suspend the California medical license of any physician and surgeon whose medical license has been suspended or revoked in any other state or by any agency of the federal government. A copy of Business and Professions Code section 2310 is enclosed for your review.

The Medical Board of California has determined, upon review of certified documents from the Missouri Board of Registration for the Healing Arts, that your Missouri license to practice medicine was suspended on December 19, 2022, and revoked on September 23, 2024. Based on this suspension/revocation, your California medical license has been suspended effective immediately. This action will be reported to the National Practitioner Data Bank and the Federation of State Medical Boards.

You have a right to a hearing on the issue of penalty, as provided by Business and Professions Code section 2310(c). This hearing will be held within 90 days from the date of request. You may send this request to:

Greg W. Chambers  
Machaela Mingardi  
Supervising Deputy Attorneys General  
Department of Justice  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102

Should the status of your medical license in Missouri change, please notify us immediately. If you have any questions regarding this matter, please contact Regina Rodriguez at (916) 263-2370.

Sincerely,

Reji Varghese  
Executive Director

Enclosure

## **EXHIBIT B**



Mike Kehoe  
Governor  
State of Missouri

Sheila Solon, Division Director  
DIVISION OF PROFESSIONAL REGISTRATION

Missouri Department of  
Commerce & Insurance  
Angela L. Nelson, Director

STATE BOARD OF REGISTRATION FOR THE HEALING ARTS  
3605 Missouri Boulevard P.O. Box 4  
Jefferson City, MO 65102-0004  
573-751-0098  
573-751-3166 FAX  
800-735-2966 TTY Relay Missouri  
800-735-2466 Voice Relay Missouri

James Leggett  
Executive Director  
healingarts@pr.mo.gov  
pr.mo.gov/healingarts

THE STATE OF MISSOURI

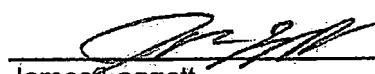
COUNTY OF COLE

### AFFIDAVIT

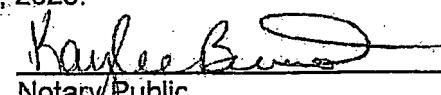
Before me, the undersigned authority, personally appeared James Leggett who, being by me duly sworn, deposed as follows:

My name is James Leggett, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the Chief Custodian of Records of the Missouri State Board of Healing Arts. Attached hereto are sixteen (16) pages of records from the Missouri Board of Healing Arts. These sixteen (16) pages of records are kept by the Missouri Board of Healing Arts in the regular course of business, and it was the regular course of business of the Missouri Board of Healing Arts for an employee or representative of the Missouri Board of Healing Arts with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time of the act, event, condition, opinion or diagnosis. The records attached hereto are the original or exact duplicates of the original.

  
James Leggett  
Executive Director

In witness whereof I have hereunto subscribed my name and affixed my official seal this 9<sup>th</sup> day of May, 2025.

  
Kaylee Bennett  
Notary Public  
My Commission Expires: November 30, 2027

|  |
|--|
| KAYLEE BENNETT<br>Notary Public - Notary Seal<br>State of Missouri<br>Commissioned for Osage County<br>My Commission Expires: November 30, 2027<br>Commission Number: 19776460 |
|--|

BEFORE THE  
MISSOURI STATE BOARD OF REGISTRATION FOR THE HEALING ARTS  
STATE OF MISSOURI

MISSOURI STATE BOARD OF )  
REGISTRATION FOR THE HEALING ARTS )  
Petitioner, )  
v. ) Case Number: 2020-004074  
DAVID E. SMOCK, M.D. )  
Respondent. )

**FINDINGS OF FACT, CONCLUSIONS OF LAW**  
**AND ORDER OF DISCIPLINE**

The Missouri State Board of Registration for the Healing Arts ("the Board"), in accordance with law, and pursuant to properly served notice, took up this matter against David E. Smock, MD, ("Respondent") during its regularly scheduled meeting on July 25, 2024, via WebEx, and at 3550 Amazonas Drive, Jefferson City, Missouri 65109, for the purpose of determining the appropriate level of discipline to impose against Respondent's physician and surgeon's license, pursuant to section 334.100.4, RSMo.<sup>1</sup>

All members of the Board present for the hearing constituted a quorum under the law; only those members of the Board were present and participated in the hearing, except for Dr. Ian L. Fawks, DO, who was not present and did not participate in the hearing, the deliberations, or any votes concerning this matter. The Board was represented by Adam Grayson, Contract Counsel (Petitioner). David A. Dykas, General Counsel, served as the Board's legal advisor in this proceeding. Respondent was present and was represented by legal counsel, Stephen Rehagen.

During the hearing, the Board admitted into the record the decision and supporting documents of the Administrative Hearing Commission ("AHC") and took official notice of the

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<sup>1</sup> All statutory references are to the 2023 Cumulative Supplement to the 2016 Revised Statutes of Missouri, unless otherwise stated.

statutes and regulations referenced therein. In reaching the decision stated in this Order, each member of the Board present at the hearing read and considered the decision of the AHC and any attachments thereto, received by the Board on January 30, 2024. The Petitioner and the Respondent were each offered the opportunity to present opening statements; present evidence through the testimony of witnesses and exhibits; to cross-examine the witnesses called to testify; and to present closing arguments.

The following exhibits were offered by Petitioner and admitted into evidence: Exhibit 1, Notice of Intent to Use Affidavit with attached Affidavit of Kayci Hollingsworth, with a certificate of service showing the Notice was mailed to the Respondent on July 23, 2024; Exhibit 2, Notice of Intent to Use Business Records Pursuant to Affidavit, with a certificate of service showing the Notice was mailed to the Respondent on July 23, 2024, with attached Business Records Affidavit and containing seventeen (17) pages of business records; Exhibit 3, Notice of Intent to Use Certified Records, with a certificate of service showing the Notice was mailed to the Respondent on July 23, 2024, with attached one thousand one hundred and seventy (1170) pages of certified records from the Administrative Hearing Commission; Exhibit 4, Notice of Intent to Use Business Records Pursuant to Affidavit with Affidavit from Cedar County Sheriff's Office, with a certificate of service showing the Notice was mailed to the Respondent on July 23, 2024, with attached Business Records Affidavit and containing one (1) page of business records; Exhibit 5; Circuit Court Docket Sheet from Cedar County, Missouri, containing thirteen (13) pages; and Exhibit 6, Circuit Court Docket Sheet from Dade County, Missouri, containing seven (7) pages. The Respondent was called to testify by the Board's attorney; the Respondent was subject to direct and cross examination, as well as to redirect.

The Respondent offered as an exhibit transcripts of depositions conducted as a part of the criminal case(s) against the Respondent, and which the depositions occurred after the AHC hearing was conducted in April 2023; the Petitioner objected to the Board accepting the depositions into evidence, in that the Petitioner was not a party to the case(s) in which the

depositions were conducted and was not present for the depositions; the Petitioner further objected based on hearsay, foundation, and relevancy in that the purpose of this hearing was disciplinary following the AHC decision finding cause to discipline existed. The Board sustained the objection and the depositions as offered by the Respondent were not admitted into evidence or otherwise considered.

Being fully advised, the Board now enters its findings of fact, conclusions of law and disciplinary order as set forth below.

#### **FINDINGS OF FACT**

1. The Board is an agency of the State of Missouri; created and established pursuant to section 334.120, RSMo for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.
2. Respondent is licensed by the Board as a Physician and Surgeon, License Number 2003017056, which was first issued on July 15, 2003. On December 19, 2022, the Respondent's license was emergently suspended by the AHC; the suspension was subsequently continued by the AHC pending the Board's disciplinary hearing. Prior to December 19, 2022, the Respondent's license was current and active during all times herein.
3. On December 14, 2022, the Board filed a properly pled Complaint and Motion for Emergency Suspension with the AHC alleging probable cause existed to emergently suspend the medical license of the Respondent, and thereafter to conduct a hearing and make a finding that cause exists for the Board to conduct a disciplinary hearing against the Respondent; the matter was assigned AHC Case No. 22-3407. The Respondent was served with the Complaint and Motion on December 15, 2022.
4. On December 19, 2022, the AHC entered an Order granting the Board's Motion and immediately suspended Respondent's license upon service of the Order upon the Respondent. The AHC found probable cause for an emergency suspension pursuant to

sections 334.102.1(2) and (8) RSMo., in that the Respondent may have engaged in sexual misconduct with a minor, and that such conduct represented a serious danger to the public.

5. Pursuant to statute and rule, the AHC conducted a hearing on the Complaint on April 11-12, 2023.; the Respondent appeared and was represented by counsel.
6. On December 7, 2023, AHC Issued a Decision finding the Board has cause to discipline the Respondent's license pursuant to sections 334.102.1(1), (2), and (8), and 334.100.2(4) and (5), RSMo. The Decision ordered the license of the Respondent to remain suspended pending a disciplinary hearing before the Board, pursuant to section 334.102.4(3) RSMo.
7. The Board incorporates by reference and adopts the findings of facts and conclusions of law as set forth in the above-referenced AHC decision and order.
8. The AHC found as a ground for discipline that the Respondent engaged in sexual conduct with an individual, who at the time of the sexual conduct was a minor, and was a patient, and not the Respondent's spouse; that such conduct is a cause for discipline under section 334.102.1(1) RSMo.
9. The AHC found as a ground for discipline that the Respondent manually and orally touched the minor individual's penis and attempted to anally penetrate the minor individual; that such conduct is a cause for discipline under section 334.102.1(2) RSMo.
10. The AHC found as a ground for discipline that the nature of the Respondent's criminal sexual misconduct proves that the Respondent is a serious danger to the health safety and welfare of minors, including minor children, because of the substantiated risk that the Respondent may sexually abuse them; that such is a cause for discipline under section 334.102.1(8) RSMo.
11. The AHC found as a ground for discipline that the Respondent's sexual abuse of the minor individual, with whom the Respondent had physician-patient relationship, demonstrated a violation section 334.100.2(4)(i) RSMo., and that such conduct and relationship was unethical and unprofessional, involving a minor, constituted a violation of section 334.100.2(4)(s) RSMo.

12. The AHC found as a ground for discipline that the sexual exploitation of a minor by the Respondent, demonstrated conduct by the Respondent that is or might be harmful to the mental or physical health of a patient or the public; such conduct constitutes a violation of section 334.100.2(5) RSMo.
13. On February 15, 2024, the Board sent a Notice of Disciplinary Hearing and a copy of the AHC's Decision of December 7, 2023, to Respondent's legal counsel, who signed the return acknowledged receipt of the same.
14. The Petitioner called the Respondent to testify in the Board's disciplinary hearing.
15. The Respondent testified that he had been incarcerated since December 2021; that during this time he had not practiced medicine; that during this time he had read a nursing book on the transformation of medicine from the "old way to the current;" he was unaware of the book's age or title. The Respondent testified he had not otherwise read or done anything to keep up on his medical knowledge while incarcerated.
16. In response to questions, regarding the minor individual or the Respondent's conduct thereto, which the AHC found to be sexual misconduct or exploitative, the Respondent answered by exercising his rights under the Fifth Amendment of the United States Constitution; the Respondent did assert that he had never and would never sexually abuse a patient.
17. The Board does not find facts or evidence in mitigation of the imposition of discipline.
18. The Board finds the discipline imposed is necessary to protect the public.

#### CONCLUSIONS OF LAW

19. Based on the Administrative Hearing Commission's Decision, the Board has cause to discipline Respondent's physician and surgeon license, pursuant to sections 334.102.1(1), (2), and (8), RSMo, and 334.100.2(4) and (5), RSMo, which states:  
334.102.1(1) The board may apply to the administrative hearing commission for an emergency suspension or restriction of a licensee for the following causes:  
\*\*\*\*\*

(1) Engaging in sexual conduct, as defined in section 566.010, with a patient who is not the licensee's spouse, regardless of whether the patient consented;

\*\*\*\*\*

(2) Engaging in sexual misconduct with a minor or person the licensee believes to be a minor. "Sexual misconduct" means any conduct of a sexual nature which would be illegal under state or federal law;

\*\*\*\*\*

(8) Any conduct for which the board may discipline that constitutes a serious danger to the health, safety, or welfare of a patient or the public.

\*\*\*\*\*

334.100.2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

\*\*\*\*\*

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

\*\*\*\*\*

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

\*\*\*\*\*

(s) Any other conduct that is unethical or unprofessional involving a minor;

\*\*\*\*\*

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

\*\*\*\*\*

20. The Board has jurisdiction to take disciplinary action against Respondent's license pursuant to section 334.100.4 RSMo., which states:

334.100.4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions

of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

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21. In its deliberations regarding the period of time that the Respondent may not apply for reinstatement, the Board considered section 334.100.5 RSMo., which states:

334.100.5 In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

#### ORDER OF REVOCATION

22. Upon the foregoing findings of fact and conclusions of law, it is the Order of the Missouri State Board of Registration for the Healing Arts that the physician and surgeon license issued to Respondent, David E. Smock, M.D., license number 2003017056, is hereby **REVOKED**.
23. Respondent shall not apply for reinstatement of a physician and surgeon license for a period of seven (7) years from the effective date of this Order.
24. Respondent shall immediately cease practicing in the state of Missouri; and within fifteen (15) days of the effective date of this Order, the Respondent shall return the physician and surgeon license and pocket card to the Board.
25. If Respondent is licensed in other jurisdictions, the Respondent shall forward written notice of this disciplinary action to the licensing authorities of those jurisdictions within thirty (30) days of the effective date of this Order. Respondent shall submit a copy of the written notice

to the Board contemporaneously with sending it to the relevant licensing authority. If Respondent is not licensed in other jurisdictions, the Respondent shall notify the Board of that fact, in writing, within thirty (30) days of the date of this Order.

26. Respondent shall, within thirty (30) days of the effective date of this Order, forward written notice of this disciplinary action to all employers, hospitals, nursing homes, out-patient centers, clinics and any other facility where Respondent practices or has privileges. Respondent shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative. If Respondent does not have an employer, staff privileges or practice at any facility, the Respondent shall notify the Board of that fact, in writing, within thirty (30) days of the date of this Order.
27. Respondent shall, within thirty (30) days of the effective date of this Order, forward written notice of this disciplinary action to any allied health care professionals that Respondent supervises. Respondent shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative. If Respondent does not supervise any allied health professionals, the Respondent shall notify the Board of that fact, in writing, within thirty (30) days of the date of this Order.
28. For purposes of this Order and unless otherwise specified herein, all reports, documentation, evaluations, notices or other materials that Respondent is required to submit to the Board shall be forwarded to the Missouri State Board of Registration for the Healing Arts, Attention: Enforcement, P.O. Box 4, Jefferson City, Missouri 65102.
29. Respondent is advised that compliance with the terms of this Order and the discharge of the professional obligations to transfer of the Respondent's patients' care and records to other providers will be assessed by the Board for compliance with section 324.042, RSMo.
30. This document shall be maintained by the Board as an open and public record as provided in Chapters 324, 334 and 610, RSMo, and the Board will report this action to the National Practitioner Data Bank and the Federation of State Medical Boards.

SO ORDERED, EFFECTIVE THIS 23<sup>rd</sup> DAY OF September, 2024.

  
James Leggett, Executive Director  
Missouri State Board of Registration for the Healing Arts