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

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| In the Matter of the Accusation Against:<br><br>Theresa Mary Franks, M.D.<br><br>Physician's and Surgeon's Certificate No. G 80309<br><br>Respondent. | Case No.: 800-2022-087389 |

## 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 December 15, 2025.

IT IS SO ORDERED: November 14, 2025.

MEDICAL BOARD OF CALIFORNIA

MD.

Veling Tsai, M.D., Chair
Panel A

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*Attorneys for Complainant*

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

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| In the Matter of the Accusation Against:<br><br>**THERESA MARY FRANKS, M.D.**<br>**101 Laguna Rd # 200**<br>**Fullerton, CA 92835-3634**<br><br>**Physician's and Surgeon's Certificate No. G 80309**<br><br>Respondent. | Case No. 800-2022-087389<br><br>OAH No. 2025030339<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** |

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

## PARTIES

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

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

3. On or about November 23, 1994, the Board issued Physician's and Surgeon's Certificate No. G 80309 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2022-087389, and will expire on November 30, 2026, unless renewed.

## JURISDICTION

4. On February 19, 2025, Accusation No. 800-2022-087389 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 February 19, 2025. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2022-087389 is attached hereto as Exhibit A and is 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. 800-2022-087389. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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## CULPABILITY

9. Respondent admits that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations in Accusation No. 800-2022-087389 and agrees that she has thereby subjected her Physician's and Surgeon's Certificate No. G 80309 to disciplinary action.

10. Respondent further agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2022-087389 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

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

## CONTINGENCY

12. 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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.

13. 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.

14. 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.

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

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 80309 issued to Respondent Theresa Mary Franks, M.D., is revoked. However, the revocation is stayed, and Respondent is placed on probation for three (3) years from the effective date of the Decision on the following terms and conditions:

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

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical

record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping 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.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall

make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

4. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice

where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within five (5) calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

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

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

7. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $21,325.80 (twenty-one thousand three hundred twenty-five dollars and eighty cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

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

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

9. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

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

Place of Practice

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

facility.

License Renewal

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

Travel or Residence Outside California

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

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

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

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

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

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

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

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; and Quarterly Declarations.

12. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. This term does not include cost recovery, which is due within 30 calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. Upon successful completion of probation, Respondent's certificate shall be fully restored.

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

14. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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

16. FUTURE ADMISSIONS CLAUSE. 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. 800-2022-087389 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

## ACCEPTANCE

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

DATED: 9/23/2025

THERESA MARY FRANKS, M.D.
*Respondent*

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

DATED: September 23, 2025

RAYMOND J. MCMAHON, ESQ.
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: 9/23/25

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KAROLYN M. WESTFALL
Deputy Attorney General
*Attorneys for Complainant*

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# Exhibit A

**Accusation No. 800-2022-087389**

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**BEFORE THE**
**MEDICAL BOARD OF CALIFORNIA**
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| In the Matter of the Accusation Against:<br><br>**THERESA MARY FRANKS, M.D.**<br>**101 Laguna Rd # 200**<br>**Fullerton, CA 92835-3634**<br><br>**Physician's and Surgeon's Certificate No. G 80309,**<br><br>Respondent. | Case No. 800-2022-087389<br><br>**ACCUSATION** |

## PARTIES

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

2. On or about November 23, 1994, the Medical Board issued Physician's and Surgeon's Certificate No. G 80309 to Theresa Mary Franks, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2026, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states, in pertinent part:

> (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 probation, as the board or an administrative law judge may deem proper.
>
> ...

5. Section 2234 of the Code states, in pertinent 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:
>
> ...
>
> (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.

...

6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

**COST RECOVERY**

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

**FIRST CAUSE FOR DISCIPLINE**

**(Gross Negligence)**

8. Respondent has subjected her Physician's and Surgeon's Certificate No. G 80309 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that Respondent was grossly negligent in her care and treatment of Patients A and B[1], as more particularly alleged hereinafter:

PATIENT A

9. On or about September 1, 2020, Patient A, a then forty-eight-year-old female, presented to Respondent with complaints of heavy periods. Patient A had previously undergone a pelvic ultrasound that revealed uterine polyps and fibroids. During this visit, Respondent performed a pap smear and endometrial biopsy. At the conclusion of the visit, Respondent

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[1] To protect the privacy of the patients involved, the patients' names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

recommended a hysteroscopy[2] with endometrial ablation and removal of polyps. Respondent noted that "consent signed," but a signed consent form was not contained within Patient A's certified complete medical records and no additional information about the risks specific to the proposed procedure were discussed and/or documented.

10. On or about September 22, 2020, Patient A presented to Respondent for a pre-operative visit. Patient A informed Respondent that she would like to proceed with the hysteroscopy and resection of polyp, but declined the endometrial ablation in order to preserve her fertility. Respondent noted that "informed consent obtained for surgery," "risks benefits and alternatives to surgery were reviewed with patient," and "informed consent obtained and signed and placed on the chart," but a signed consent form was not contained within Patient A's certified complete medical records and no additional information about the risks specific to the proposed procedure were discussed and/or documented.

11. On or about September 28, 2020, Patient A presented to St. Jude Medical Center for her scheduled hysteroscopy, resection of polyp, and dilation and curettage. In her history and physical report, Respondent noted Patient A "understands the risks and benefits of this surgery, which include, but are not limited to, risk of anesthesia, injury to surrounding organs specifically the bowel or the bladder, possibility of perforation of the uterus and possibility of injury to other specific organs as well. She understands the risk of infection and the possibility of recurrence of endometrial polyps in the future. She understands all these risks and agrees to proceed and consents are signed and are on the chart." Despite the known risks of this procedure, Respondent did not obtain, discuss, and/or document Patient A's additional consent for a possible laparoscopy[3] or conversion to a laparotomy.[4]

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[2] Hysteroscopy is used to diagnose or treat problems of the uterus. A hysteroscope is a thin, lighted telescope-like device that is placed into the uterus through the vagina and cervix. The hysteroscope transmits the image of the uterus onto a screen. Other instruments are used along with the hysteroscope for treatment.

[3] A laparoscopy is a minimally invasive operation performed in the abdomen or pelvis using small incisions with the aid of a camera. The laparoscope aids diagnosis or therapeutic interventions with a few small cuts in the abdomen.

[4] A laparotomy is a surgical procedure involving a surgical incision through the abdominal wall to gain access into the abdominal cavity.

12. On or about September 28, 2020, Respondent performed a hysteroscopy with resection of polyp, and dilation and curettage on Patient A. After the insertion of the hysteroscope and use of the device to resect polyps, Respondent detected "high fluid loss," and decided to abandon that portion of the procedure. The operative report does not identify the amount of fluid loss or deficit encountered. Despite the "high fluid loss," Respondent then performed sharp curettage and attempted to grasp the remaining polyps with forceps. According to the operative report, no complications were identified. Patient A was subsequently discharged home that day in stable condition.

13. On or about September 29, 2020, Patient A presented to Respondent without an appointment with complaints of severe post operative pain, vomiting, and abdominal bloating. Respondent noted Patient A was in "acute distress." Upon examination, Respondent found Patient A's abdomen to have normal bowel sounds and no rebound or guarding, and determined Patient A was not suffering from internal bleeding or other issues. At the conclusion of the visit, Respondent ordered lab work, prescribed Patient A pain medication, and recommended a follow-up in one week.

14. On or about September 29, 2020, sometime after Patient A's visit, Respondent received a call from Dr. M.B., a pathologist at St. Jude Medical Center. Dr. M.B. informed Respondent that he found evidence of bowel wall within the tissue Respondent removed during Patient A's surgery.

15. On or about July 24, 2024, Respondent was interviewed by an investigator for the Board. During that interview, Respondent claimed to have called Patient A on or about September 29, 2020, after receiving the call from Dr. M.B. Respondent further claimed that she informed Patient A of the pathology results and advised her to go to the emergency department. Respondent further claimed that Patient A was strongly opposed to going to the emergency department due to her fears of COVID. This phone call, Respondent's recommendations, Patient A's refusal, and the implications of that refusal are not documented in Patient A's certified complete medical records.

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16. On or about September 30, 2020, Patient A presented to the emergency department with complaints of severe abdominal pain, abdominal distention, and brown vaginal discharge. A CT scan revealed a suspected bowel perforation, and Patient A was admitted for surgery. Patient A then underwent an exploratory laparotomy with abdominal washout, ileocecectomy,[5] and formation of a diverting ileostomy.[6] Intraoperative findings confirmed a perforated bowel, and the subsequent pathology report identified a "sharply delineated and punched out lesion of the serosal surface of the ileum."

17. Patient A remained hospitalized for an extensive course and was discharged on or about October 14, 2020.

18. Respondent committed gross negligence in her care and treatment of Patient A by failing to appropriately manage a suspected bowel injury.

PATIENT B

19. In or around 2019, Respondent began providing gynecologic care and treatment to Patient B, a then forty-two-year-old female. Patient B initially complained of abnormal bleeding despite being on birth control pills.

20. In or around January 2020, Respondent performed an endometrial ablation on Patient B in order to thin the lining of the uterus and alleviate the bleeding issue.

21. In or around April 2020, Patient B presented to urgent care with complaints of abdominal pain. A subsequent abdominal ultrasound revealed the presence of an ovarian cyst.

22. On or about April 28, 2020, Patient B presented to Respondent for a follow-up visit. Respondent recommended a repeat ultrasound, and if the cyst remained present, Respondent further recommended a laparoscopy with unilateral salpingo-oophorectomy.[7]

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[5] Ileocecectomy is an operation to remove a section of the ileum (last segment of the small bowel) and ascending colon.

[6] Ileostomy is a surgical procedure whereby a surgical opening is constructed by bringing the end or loop of the ileum out onto the surface of the skin, in order to allow waste to pass out of the body and into an external ostomy system which is placed next to the opening.

[7] A salpingo-oophorectomy is the removal of one (unilateral) or both (bilateral) ovaries and fallopian tubes.

23. On or about May 1, 2020, Patient B underwent a pelvic ultrasound that revealed "bilateral small mildly complex ovarian probably hemorrhagic cysts, probably stable since December 6, 2019," and a new small simple left ovarian cyst.

24. On or about May 6, 2020, Patient B presented to Respondent for a pre-operative visit. Respondent reviewed the ultrasound results with Patient B and recommended a laparoscopy with bilateral ovarian cystectomy and possible bilateral salpingo-oophorectomy. Respondent noted that "informed consent obtained," "risks benefits and alternatives to surgery reviewed," and "consent signed," but a signed consent form was not contained within Patient B's certified complete medical records and no additional information about the risks specific to the proposed procedure were discussed and/or documented.

25. On or about May 11, 2020, Patient B presented to St. Jude Medical Center for her scheduled laparoscopy with bilateral ovarian cystectomy and possible bilateral salpingo-oophorectomy. In her history and physical report, Respondent noted Patient B "understands the risks and benefits, which include but are not limited to risk of anesthesia, injury to the surrounding organs, specifically the bowel or the bladder, possibility of infection, possibility of bleeding necessitating blood transfusion with the subsequent risk of HIV and hepatitis. She understands these risks and agrees to proceed and consents are signed and are on the chart." Respondent did not discuss and/or document a discussion with Patient B regarding the specific risk of injury to the ureters during this procedure, and did not obtain, discuss, and/or document Patient B's additional consent for a possible conversion to a laparotomy.

26. On or about May 11, 2020, Respondent performed a laparoscopy with bilateral salpingo-oophorectomy and extensive lysis of adhesions on Patient B. Intraoperatively, Respondent found bilateral ovarian cyst endometriomas with extensive adhesions to the posterior cul-de-sac and large intestine. Respondent then removed the adhesions using graspers bilaterally using blunt and sharp dissection, and subsequently removed both tubes and ovaries. Despite finding severe endometriosis, the operative report does not describe what structures were separated when the adhesions were addressed, what steps, if any, were taken to protect the ureter, or whether the ureters were identified and/or isolated prior to securing the infundibulopelvic

ligaments on either side. According to the operative report, no complications were identified. Patient B was subsequently discharged home that day in stable condition.

27. On or about May 12, 2020, Respondent received a call from Dr. P.F., a pathologist at St. Jude Medical Center. Dr. P.F. informed Respondent that he found a segment of ureter within the tissue Respondent removed during Patient B's surgery. Thereafter, Respondent called Patient B and informed her of the pathology findings. Respondent informed Patient B of the need for an immediate urology referral for treatment of the ureteral injury and provided her with the phone number of a urologist for further management. Respondent did not advise Patient B to immediately go to the emergency department because she was not sure how to handle the situation.

28. On or about May 12, 2020, sometime after speaking with Patient B, Respondent spoke with a urologist who advised her to instruct Patient B to immediately go to the emergency department for evaluation. Thereafter, Respondent called Patient B and instructed her to immediately go to the emergency department for evaluation. This second phone call to Patient B is not documented in Patient B's certified complete medical records.

29. On or about May 12, 2020, Patient B presented to the emergency department as instructed. A urogram CT revealed bilateral hydroureteronephrosis from suspected underlying distal ureteral obstruction at the level of the adnexa, with no significant free fluid suggestive of a urine leak or ureteral tear. Patient B was then admitted for surgery.

30. On or about May 13, 2020, Patient B underwent a cystoscopy, bilateral retrograde pyelograms, placement of a left ureteral stent, and placement of a right percutaneous nephrostomy tube. Intraoperative findings confirmed the right ureter ended abruptly and the urologist was unable to pass a guide wire through the right ureter past the pelvic brim.

31. Patient B was discharged on or about May 14, 2020.

32. Respondent committed gross negligence in her care and treatment of Patient B by failing to identify and take appropriate steps to protect Patient B's right ureter during a salpingo-oophorectomy in a patient with severe endometriosis, resulting in a transection injury to the patient's right ureter.

## SECOND CAUSE FOR DISCIPLINE

**(Repeated Negligent Aets)**

33. Respondent has further subjected her Physician's and Surgeon's Certificate No. G 80309 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in her care and treatment of Patients A and B, which included, but were not limited to, the following:

a) Paragraphs 8 through 32, above, are hereby incorporated by reference and realleged as if fully set forth herein;

b) Failing to obtain adequate informed consent from Patient A before performing a hysteroscopy;

c) Failing to recognize and appropriately manage signs of uterine perforation in Patient A;

d) Failing to obtain adequate informed consent from Patient B before performing a laparoscopic bilateral salpingo-oophorectomy; and

e) Failing to appropriately manage Patient B's known ureteral injury.

## THIRD CAUSE FOR DISCIPLINE

**(Incompetence)**

34. Respondent has further subjected her Physician's and Surgeon's Certificate No. G 80309 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (d), of the Code, in that Respondent was incompetent in her care and treatment of Patient B, as more particularly alleged in paragraphs 19 through 32, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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## FOURTH CAUSE FOR DISCIPLINE

**(Failure to Maintain Adequate and Accurate Records)**

35. Respondent has further subjected her Physician's and Surgeon's Certificate No. G 80309 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding her care and treatment of Patients A and B, as more particularly alleged in paragraphs 8 through 32, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

## PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 80309, issued to Respondent Theresa Mary Franks, M.D.;

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

3. Ordering Respondent Theresa Mary Franks, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: FEB 19 2025

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

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