

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

In the Matter of the Statement of Issues
Against:

Mark Thomas Bernardi, M.D.

Applicant.

Case No. 800-2019-056604


DECISION

The attached Stipulated Settlement and Public Letter of Reprimand 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 MAY 29 2020

IT IS SO ORDERED APR 29 2020

MEDICAL BOARD OF CALIFORNIA

By: 

Ronald H. Lewis, M.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:
13 **Mark Thomas Bernardi,**
14
15 Applicant.

Case No. 800-2019-056604

**STIPULATED SETTLEMENT AND
PUBLIC LETTER OF REPRIMAND**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

- 20 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
21 Board of California (Board). She brought this action solely in her official capacity and is
22 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
23 Lawrence Mercer, Deputy Attorney General.
- 24 2. Respondent Mark Thomas Bernardi, M.D. (Applicant) is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.
- 26 3. On or about December 4, 2018, Applicant filed an application with the Medical
27 Board of California to obtain a physician's and surgeon's certificate.
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1 **JURISDICTION**

2 4. Statement of Issues No. 800-2019-056604 was filed before the Board, and is currently
3 pending against Applicant. The Statement of Issues and all other statutorily required documents
4 were properly served on Applicant on April 13, 2020.

5 5. A copy of Statement of Issues No. 800-2019-056604 is attached as exhibit A and
6 incorporated herein by reference.

7 **ADVISEMENT AND WAIVERS**

8 6. Applicant has carefully read, and understands the charges and allegations in
9 Statement of Issues No. 800-2019-056604. Applicant has also carefully read, and understands the
10 effects of this Stipulated Settlement and Public Letter of Reprimand.

11 7. Applicant is fully aware of his legal rights in this matter, including the right to a
12 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
13 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
14 the right to present evidence and to testify on his own behalf; the right to the issuance of
15 subpoenas to compel the attendance of witnesses and the production of documents; the right to
16 reconsideration and court review of an adverse decision; and all other rights accorded by the
17 California Administrative Procedure Act and other applicable laws.

18 8. Applicant voluntarily, knowingly, and intelligently waives and gives up each and
19 every right set forth above.

20 **CULPABILITY**

21 9. Applicant understands and agrees that the charges and allegations in the Statement of
22 Issues No. 800-2019-056604, if proven at a hearing, constitute cause for denying his application
23 for physician's and surgeon's certificate.

24 10. For the purpose of resolving the Statement of Issues without the expense and
25 uncertainty of further proceedings, Applicant agrees that, at a hearing, Complainant could
26 establish a factual basis for the charges in the Statement of Issues, and that Applicant hereby
27 gives up his right to contest those charges.

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1 11. Applicant agrees to accept a reprimand letter and to successfully complete a
2 professionalism course, as stipulated herein and ordered by the Board.

3 **CONTINGENCY**

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

14 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Settlement and Public Letter of Reprimand, including PDF and facsimile
16 signatures thereto, shall have the same force and effect as the originals.

17 14. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Board may, without further notice or formal proceeding, issue and enter the following
19 reprimand and order:

20 **ORDER**

21 **A. PUBLIC LETTER OF REPRIMAND**

22
23 IT IS HEREBY ORDERED that Applicant Mark Thomas Bernardi, M.D. shall receive a
24 Public Letter of Reprimand pursuant to Business and Professions Code §2221.05. This Public
25 Letter of Reprimand is issued concurrently with licensure and in connection with Applicant’s
26 actions as set forth in Statement of Issues No. 800-2019-056604, is as follows:
27

28 On December 4, 2018, you submitted an application for licensure in which you

1 represented that the application was complete, did not omit any material fact, and was
2 true and correct under penalty of perjury. In your application, you failed to disclose a
3 one-month probation that was imposed during your postgraduate training program.
4 The omitted information was material and relevant to the Board's consideration of
5 your application. When you were questioned, you did acknowledge the omission, for
6 which reason this public letter of reprimand is issued concurrently with licensure
7 pursuant to Business and Professions Code § 2221.05.

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B. PROFESSIONALISM PROGRAM (ETHICS COURSE)

Within 60 days of the effective date of this decision, Applicant shall enroll in a professionalism program that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Applicant shall participate in and successfully complete that program. Applicant shall provide any information and documents that the program may deem pertinent. Applicant shall successfully complete the classroom component of the program not later than six (6) months after Applicant's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, not no later than one (1) year after attending the classroom component. The professionalism program shall be at Applicant's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Statement of Issues, 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 program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

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

Applicant understands and agrees that failure to timely enroll in and/or failure to successfully complete the program shall constitute grounds for disciplinary action.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Public Letter of Reprimand. I understand the stipulation and the effect it will have on my physician's and surgeon's certificate. I enter into this Stipulated Settlement and Public Letter of Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 4/15/20



MARK THOMAS BERNARDI, M.D.
Applicant

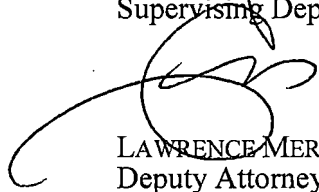
ENDORSEMENT

The foregoing Stipulated Settlement and Public Letter of Reprimand is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 4/15/2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General



LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 800-2019-056604

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11 In the Matter of the Statement of Issues
Against:

Case No. 800-2019-056604

12 **MARK THOMAS BERNARDI**

13 **STATEMENT OF ISSUES**

14 Applicant.
15

16 Complainant alleges:

17 PARTIES

18 1. Christine J. Lally (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Interim Executive Director of the Medical Board of California, Department of
20 Consumer Affairs.

21 2. The Medical Board of California (Board) received from Mark Thomas Bernardi
22 (Applicant) an application for a Physician's and Surgeon's Certificate on December 4, 2018. In
23 his application, Applicant certified under penalty of perjury to the truthfulness of all statements,
24 answers, and representations in the application. On July 9, 2019, the Board advised Applicant
25 that he did not qualify for an unrestricted license. Applicant was offered a probationary license.
26 On January 20, 2020, Applicant requested a hearing on his application.

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JURISDICTION

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2 3. This Statement of Issues is brought before the Medical Board of California (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2221 of the Code states, in pertinent part:

6 “(a) The board may deny a physician’s and surgeon’s certificate to an applicant guilty of
7 unprofessional conduct or of any cause that would subject a licensee to revocation or suspension
8 of their license. The board in its sole discretion, may issue a probationary physician’s and
9 surgeon’s certificate to an applicant subject to terms and conditions . . .

10 “. . . (d) An applicant shall not be eligible to reapply for a physician’s and surgeon’s
11 certificate for a minimum of three years from the effective date of the denial of their application,
12 except that the board may, in its discretion and for good cause demonstrated, permit reapplication
13 after not less than one year has elapsed from the effective date of the denial.”

14 5. Section 2234 of the Code, states, in pertinent part:

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

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

20 “(f) Any action or conduct which would have warranted the denial of a certificate.”

21 6. Section 475 of the Code states, in pertinent part:

22 “(a) Notwithstanding any other provisions of this code, the provisions of this division shall
23 govern the denial of licenses on the grounds of:

24 “(1) Knowingly making a false statement of material fact, or knowingly omitting to state a
25 material fact, in an application for a license.

26 “. . . (3) Commission of any act involving dishonesty, fraud or deceit with the intent to
27 substantially benefit himself or another, or substantially injure another.

1 “(4) Commission of any act which, if done by a licentiate of the business or profession in
2 question, would be grounds for suspension or revocation of license.”

3 7. Section 480 of the Code states:

4 “(a) A board may deny a license regulated by this code on the grounds that the applicant
5 has one of the following:

6 “. . . (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
7 benefit himself or herself or another, or substantially injure another.

8 “(3) (A) Done any act that if done by a licentiate of the business or profession in question,
9 would be grounds for suspension or revocation of license.

10 “(B) The board may deny a license pursuant to this subdivision only if the crime or act is
11 substantially related to the qualifications, functions, or duties of the business or profession for
12 which application is made.

13 “. . . (d) A board may deny a license regulated by this code on the ground that the applicant
14 knowingly made a false statement of fact that is required to be revealed in the application for the
15 license.”

16 CAUSE FOR DENIAL OF APPLICATION

17 (Unprofessional Conduct/Dishonest Acts/Material Omission)

18 8. Applicant's application is subject to denial under section 2234 and/or 2234(e) and/or
19 475(a)(1), and/or 475(a)(3) and/or 480(a)(2) and/or 480(a)(3) and/or 480(d) in that Applicant
20 knowingly omitted a material fact on his license application and/or engaged in a course of
21 unprofessional conduct by carelessly or negligently omitting a material fact on his license
22 application. The circumstances are as follows:

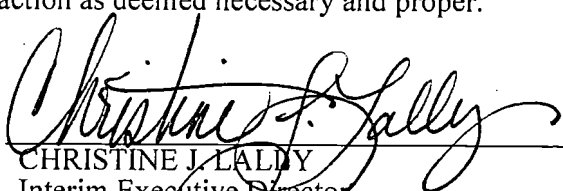
23 9. On December 4, 2018, Applicant submitted his application for licensure online. On
24 December 9, 2018, he submitted a sworn statement that all of the information in his application
25 for licensure was true and correct. He also acknowledged that any omission, falsification or
26 misrepresentation of any item or response would be a sufficient basis for the Board to deny the
27 application.

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2. If issued a probationary license, ordering Mark Thomas Bernardi to pay the Board the costs of probation monitoring;
3. If placed on probation, revoking, suspending or denying approval of the Mark Thomas Bernardi's authority to supervise physician assistants and advanced practice nurses; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: **APR 13 2020**


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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