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

In the Matter of the Accusation Against: **Azra-Afreen Nisar, M.D.** **Physician's and Surgeon's Certificate No. A 41503,** **Respondent.**	**Case No. 800-2018-051185**

DECISION

The attached Stipulated Surrender of License and 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 OCT 13 2020.

IT IS SO ORDERED OCT 06 2020.

MEDICAL BOARD OF CALIFORNIA

By: _____
William Prasifka
Executive Director

XAVIER BECERRA
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E. A. JONES III
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **AZRA-AFREEN NISAR, M.D.** **2130 Las Lanas Lane** **Fullerton, CA 92833** **Physician's and Surgeon's Certificate No. A 41503,** Respondent.	Case No. 800-2018-051185 OAH No. 2020050404 **STIPULATED SURRENDER OF LICENSE AND 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. William Prasifka (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 Xavier Becerra, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney General.

2. Azra-Afreen Nisar, M.D. (Respondent) is represented in this proceeding by attorney Nathan Mubasher, whose address is: The Law Offices of Nathan Mubasher, 2621 Green River Rd, Ste 105 PMB 403, Corona, CA 92882.

3. On or about January 22, 1985, the Board issued Physician's and Surgeon's Certificate No. A 41503 to Respondent. The Physician's and Surgeon's Certificate expired on February 28, 2018, and has not been renewed.

JURISDICTION

4. Accusation No. 800-2018-051185 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 March 25, 2020. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-051185 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-051185. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. 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.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2018-051185, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

10. Respondent admits the truth of each and every charge and allegation in paragraphs 21 through 28, inclusive, in Accusation No. 800-2018-051185, and agrees that cause exists for discipline.

11. Respondent agrees that if she ever petitions for reinstatement of her Physician's and Surgeon's Certificate No. A 41503, all of the charges and allegations contained in Accusation No. 800-2018-051185 shall be deemed true, correct and fully admitted by Respondent for purposes of that reinstatement proceeding or any other licensing proceeding involving Respondent in the State of California.

12. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Physician's and Surgeon's Certificate without further process.

CONTINGENCY

13. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order 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 formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 41503, issued to Respondent Azra-Afreen Nisar, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2018-051185 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. 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 agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2018-051185 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 licensure.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Nathan Mubasher. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 07/28/2020

Azra Nisar MD

AZRA-AFREEN NISAR, M.D.
Respondent

I have read and fully discussed with Respondent AZRA-AFREEN NISAR, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 07/28/2020

Nathan Mubasher

NATHAN MUBASHER
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 8/6/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

for WENDY WIDIUS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-051185

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **Azra-Afreen Nisar, M.D.** **2130 Las Lanas Lane** **Fullerton, CA 92833** **Physician's and Surgeon's Certificate No. A 41503,** Respondent.	Case No. 800-2018-051185 **A C C U S A T I O N**

PARTIES

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

2. On or about January 22, 1985, the Medical Board issued Physician's and Surgeon's Certificate Number A 41503 to Azra-Afreen Nisar, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on February 28, 2018, and has not been renewed, and is in a delinquent status.

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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 2001.1 of the Code states:

> Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (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.

6. Section 2234 of the Code, states:

> 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:

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

(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 which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which 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. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

7. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality[1] of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of

[1] Pursuant to Business and Professions Code section 2002, "Division of Medical Quality" or "Division" shall be deemed to refer to the Medical Board of California.

conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

8. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos* v. *Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

9. Section 493 of the Code states:

(a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

10. Section 802.1 of the Code states:

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

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

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

(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.

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

11. Section 810 of the Code states:

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

(c) (1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The

board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

(6) "More than one conviction," as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have "more than one conviction" for the purposes of this subdivision.

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

12. Section 118 of the Code states, in pertinent part:

. . .

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or

continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1360, states:

For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act."

STATUTORY PROVISIONS

14. California Welfare and Institutions Code section 14107 states:

(a) Any person, including any applicant or provider as defined in Section 14043.1, or billing agent, as defined in Section 14040.1, who engages in any of the activities identified in subdivision (b) is punishable by imprisonment as set forth in subdivisions (c), (d), and (e), by a fine not exceeding three times the amount of the fraud or improper reimbursement or value of the scheme or artifice, or by both this fine and imprisonment.

(b) The following activities are subject to subdivision (a):

(1) A person, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200).

(2) A person knowingly submits false information for the purpose of obtaining greater compensation than that to which he or she is legally entitled for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200).

(3) A person knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200).

(4) A person knowingly and willfully executes, or attempts to execute, a scheme or artifice to do either of the following:

(A) Defraud the Medi-Cal program or any other health care program administered by the department or its agents or contractors.

(B) Obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, the Medi-Cal program or any other health care program administered by the department or its agents or contractors, in connection with the delivery of or payment for health care benefits, services, goods, supplies, or merchandise.

(c) A violation of subdivision (a) is punishable by imprisonment in a county jail, or in the state prison for two, three, or five years.

(d) If the execution of a scheme or artifice to defraud as defined in paragraph (4) of subdivision (b) is committed under circumstances likely to cause or that do cause two or more persons great bodily injury, as defined in Section 12022.7 of the Penal Code, or serious bodily injury, as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, a term of four years, in addition and consecutive to the term of imprisonment imposed in subdivision (c), shall be imposed for each person who suffers great bodily injury or serious bodily injury.

The additional terms provided in this subdivision shall not be imposed unless the facts showing the circumstances that were likely to cause or that did cause great bodily injury or serious bodily injury to two or more persons are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(e) If the execution of a scheme or artifice to defraud, as defined in paragraph (4) of subdivision (b) results in a death which constitutes a second degree murder, as defined in Section 189 of the Penal Code, the offense shall be punishable, upon conviction, pursuant to subdivision (a) of Section 190 of the Penal Code.

(f) Any person, including an applicant or provider as defined in Section 14043.1, or billing agent, as defined in Section 14040.1, who has engaged in any of the activities subject to fine or imprisonment under this section, shall be subject to the asset forfeiture provisions for criminal profiteering.

(g) Pursuant to Section 923 of the Penal Code, the Attorney General may convene a grand jury to investigate and indict for any of the activities subject to fine, imprisonment, or asset forfeiture under this section.

(h) The enforcement remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, but the penalty to be imposed shall be determined as set forth in Section 654 of the Penal Code.

15. Penal Code section 487, subdivision (a) states:

Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars ($950), except as provided in subdivision (b).

16. Penal Code section 530.5, subdivision (a) states:

(a) Every person who willfully obtains personal identifying information, as

defined in subdivision (b) of Section 530.55, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

17. Penal Code section 801.5 states:

Notwithstanding Section 801 or any other provision of law, prosecution for any offense described in subdivision (c) of Section 803 shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

18. Penal Code section 803, subdivision (c) states, in pertinent part:

(c) A limitation of time prescribed in this chapter does not commence to run until the discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison or imprisonment pursuant to subdivision (h) of Section 1170, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee,

...

19. Penal Code section 186.11, states, in pertinent part:

(a)(1) Any person who commits two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than one hundred thousand dollars ($100,000), shall be punished, upon conviction of two or more felonies in a single criminal proceeding, in addition and consecutive to the punishment prescribed for the felony offenses of which he or she has been convicted, by an additional term of imprisonment in the state prison as specified in paragraph (2) or (3). This enhancement shall be known as the aggravated white collar crime enhancement. The aggravated white collar crime enhancement shall only be imposed once in a single criminal proceeding. For purposes of this section, "pattern of related felony conduct" means engaging in at least two felonies that have the same or similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics, and that are not isolated events. For purposes of this section, "two or more related felonies" means felonies committed against two or more separate victims, or against the same victim on two or more separate occasions.

(2) If the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than five hundred thousand dollars ($500,000), the additional term of punishment shall be two, three, or five years in the state prison.

(3) If the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than one hundred thousand dollars ($100,000), but not more than five hundred thousand dollars ($500,000), the additional term of punishment shall be the term specified in paragraph (1) or (2) of subdivision (a) of Section 12022.6.

(b)(1) The additional prison term and penalties provided for in subdivisions (a), (c), and (d) shall not be imposed unless the facts set forth in subdivision (a) are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

20. Penal Code section 186.11, states, in pertinent part:

(a) When any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term as follows:

(1) If the loss exceeds sixty-five thousand dollars ($65,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of one year.

(2) If the loss exceeds two hundred thousand dollars ($200,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of two years.

(3) If the loss exceeds one million three hundred thousand dollars ($1,300,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of three years.

FACTUAL ALLEGATIONS

21. Respondent submitted claims to Medi-Cal under the Family Planning, Access, Care and Treatment (Family PACT) and Child Health and Disability Prevention (CHOP) programs as a Medi-Cal provider.

22. In July 2013, an unannounced audit was conducted of Respondent's clinic, and auditors found numerous irregularities in her files. During a subsequent investigation by law enforcement several of Respondent's employees stated that Respondent ordered them on numerous occasions to create fictitious records for patients that did not exist and/or for visits that did not occur.

23. Subsequent investigation into a representative sample of the Family PACT/CHOP claims submitted by Respondent showed that over 2/3 of her submitted claims were fraudulent. Thereafter, a statistical review concluded approximately $1.8 million of the Family PACT/CHOP claims that Respondent submitted to Medi-Cal were fraudulent.

24. On or about December 21, 2017, in Los Angeles County Superior Court in *People of the State Of California vs. Azra-Afreen Nisar*, case number NA105923, Respondent pled nolo

contendere to, and was convicted of, each count alleged against her as follows: one count of violating Welfare and Institutions Code section 14107, subdivision (b)(4), also referred to as presenting false Medi-Cal claims; one count of violating Penal Code section 487, subdivision (a), also referred to as grand theft; and seven counts of violating Penal Code section 530.5, subdivision (a), also referred to as identity theft.

25. On or about February 15, 2018, the Los Angeles County Superior Court sentenced Respondent to serve three years in state prison, to enroll in an outpatient residential treatment program for drugs upon her release, and to make restitution in the amount of $1,884,600.00 to the Healthcare Deposit Fund/Medi-Cal.

26. At no time did Respondent report either the criminal complaint filed against her or her conviction to the Board as required by Section 802.1 of the Code.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

27. By reason of the facts set forth above in paragraphs 21 through 26, Respondent is subject to disciplinary action pursuant to section 2236, subdivision (a), of the Code and California Code of Regulations, Title 16, section 1360 for the conviction of a crime, by engaging in presenting false Medi-Cal Claims in violation of Welfare and Institutions Code section 14107, subdivision (b)(4), by engaging in grand theft in violation of Penal Code Section 487, subdivision (a), and by engaging in identity theft, in violation of Penal Code section 530.5, subdivision (a), which are each substantially related to the qualifications, functions, or duties of a physician and surgeon.

28. Respondent's acts and/or omissions set forth in paragraphs 21 through 26 above, whether proven individually, jointly, or in any combination thereof, constitute convictions of crimes substantially related to the qualifications, functions, or duties of a physician and surgeon in violation of section 2236, subdivision (a), of the Code and California Code of Regulations, Title 16, section 1360. Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

29. By reason of the facts set forth above in paragraphs 21 through 26, Respondent is subject to disciplinary action under section 2234, subdivisions (a) and (e), and section 2236, subdivision (a) of the Code and California Code of Regulations, Title 16, section 1360, in that she engaged in unprofessional conduct by committing dishonest acts substantially related to the qualifications, functions, or duties of a physician and surgeon by engaging in presenting false Medi-Cal Claims in violation of Welfare and Institutions Code section 14107, subdivision (b)(4), by engaging in grand theft in violation of Penal Code Section 487, subdivision (a), and by engaging in identity theft, in violation of Penal Code section 530.5, subdivision (a), which are each substantially related to the qualifications, functions, or duties of a physician and surgeon.

30. Respondent's acts and/or omissions set forth in paragraphs 21 through 26 above, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct in violation of section 2234, subdivisions (a) and (e), and section 2236, subdivision (a), of the Code and California Code of Regulations, Title 16, section 1360. Therefore, cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Failure to Report Conviction)

31. By reason of the facts set forth above in paragraphs 21 through 26 above, Respondent is subject to disciplinary action under section 802.1, subdivision (a)(1), subdivision (B)(2) of the Code in that in that she failed to report her conviction to the Board.

32. Respondent's acts and/or omissions as set forth in paragraphs 21 through 26 above, whether proven individually, jointly, or in any combination thereof, constitute a failure to report her conviction to the Board in violation of section 802.1, subdivision (B) of the Code. Therefore, cause for discipline exists.

DISCIPLINARY CONSIDERATIONS

33. To determine the degree of discipline, if any, to be imposed on Respondent Azra-Afreen Nisar, M.D., Complainant alleges that on or about March 30, 2004, an Accusation was filed against Respondent. On or about October 13, 2005, a Decision with an effective date of

November 10, 2005, was issued which read: revoked, stayed, three years' probation with terms and conditions. On or about November 2, 2005, a Petition for Reconsideration was filed. On or about November 3, 2005, a Request for Stay was filed. On or about November 7, 2005 a Petition for a Writ of Administrative Mandate was filed in the Superior Court of the State of California. On or about November 8, 2015, an Order Granting Stay until November 21, 2005, was issued. On or about November 18, 2005, the Petition for Reconsideration was denied. On or about November 21, 2005 a Decision became effective which read: revoked, stayed, three years' probation with terms and conditions. On or about November 30, 2005, an Order Staying Administrative Action until March 31, 2006, was issued by the Superior Court of the State of California. The Petition for a Writ of Administrative Mandate was dismissed and on or about May 1, 2006, a Decision became effective which read: revoked, stayed, three years' probation with terms and conditions.

That Decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 41503, issued to Azra-Afreen Nisar, M.D.;

2. Revoking, suspending or denying approval of Azra-Afreen Nisar, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Azra-Afreen Nisar, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: MAR 25 2020

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

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