

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

In the Matter of the Accusation
Against

Barton Tanenbaum, M.D.

Physician's and Surgeon's
Certificate No. G 19250,

Respondent.

Case No. 800-2019-052906

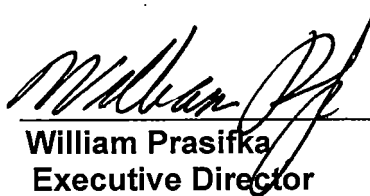
DECISION

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 March 5, 2021.

IT IS SO ORDERED February 26, 2021.

MEDICAL BOARD OF CALIFORNIA



William Prasifka
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRISTINA SEIN GOOT
Deputy Attorney General
4 State Bar No. 229094
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6481
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2019-052906

13 BARTON TANENBAUM, M.D.

14 1127 Wilshire Blvd., Suite 805
Los Angeles, CA 90017-3909

15 Physician's and Surgeon's Certificate
16 No. G 19250,

17 Respondent.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Xavier Becerra, Attorney General of California, by Christina Sein Goot, Deputy
25 Attorney General.

26 2. Barton Tanenbaum, M.D. (Respondent) is represented in this proceeding by attorney
27 Mark B. Guterman, whose address is: 865 South Figueroa Street, 32nd Floor, Los Angeles, CA
28 90017.

1 acceptance.

2 9. Respondent understands that by signing this stipulation, he enables the Board to issue
3 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
4 process.

5 **CONTINGENCY**

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

15 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
16 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
17 thereto, shall have the same force and effect as the originals.

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

20 **ORDER**

21 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. G 19250,
22 issued to Respondent Barton Tanenbaum, M.D., is surrendered and accepted by the Board.

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

27 2. Respondent shall lose all rights and privileges as a physician and surgeon in
28 California as of the effective date of the Board's Decision and Order.

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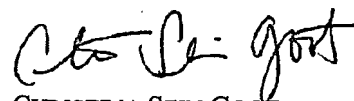
ENDORSEMENT

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: 02/18/2021

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


CHRISTINA SEIN GOOT
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-052906

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14 BARTON TANENBAUM, M.D.
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No. G 19250,
17
Respondent.

Case No. 800-2019-052906

A C C U S A T I O N

18
19 **PARTIES**

20 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On September 28, 1970, the Board issued Physician's and Surgeon's Certificate
24 Number G 19250 to Barton Tanenbaum, M.D. (Respondent). That license was in full force and
25 effect at all times relevant to the charges brought herein and will expire on November 30, 2021,
26 unless renewed.

27 //
28 //

1 JURISDICTION

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

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other
8 action taken in relation to discipline as the Board deems proper.

9 5. Section 2228.1 of the Code states:

10 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),
11 the board shall require a licensee to provide a separate disclosure that includes the
12 licensee's probation status, the length of the probation, the probation end date, all
13 practice restrictions placed on the licensee by the board, the board's telephone
14 number, and an explanation of how the patient can find further information on the
15 licensee's probation on the licensee's profile page on the board's online license
16 information Internet Web site, to a patient or the patient's guardian or health care
17 surrogate before the patient's first visit following the probationary order while the
18 licensee is on probation pursuant to a probationary order made on and after July 1,
19 2019, in any of the following circumstances:

20 (1) A final adjudication by the board following an administrative hearing or
21 admitted findings or prima facie showing in a stipulated settlement establishing any
22 of the following:

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

25 (B) Drug or alcohol abuse directly resulting in harm to patients or the extent
26 that such use impairs the ability of the licensee to practice safely.

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

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

(2) An accusation or statement of issues alleged that the licensee committed any
of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a
stipulated settlement based upon a nolo contendere or other similar compromise that
does not include any prima facie showing or admission of guilt or fact but does
include an express acknowledgment that the disclosure requirements of this section
would serve to protect the public interest.

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

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

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

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

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

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

9 (d) On and after July 1, 2019, the board shall provide the following
10 information, with respect to licensees on probation and licensees practicing under
probationary licenses, in plain view on the licensee's profile page on the board's
online license information Internet Web site.

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

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

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

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

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

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

20 6. Section 2234 of the Code, states:

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

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

25 (b) Gross negligence.

26 (c) Repeated negligent acts. To be repeated, there must be two or more
27 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.

28 (1) An initial negligent diagnosis followed by an act or omission medically

1 appropriate for that negligent diagnosis of the patient shall constitute a single
2 negligent act.

3 (2) When the standard of care requires a change in the diagnosis, act, or
4 omission that constitutes the negligent act described in paragraph (1), including, but
5 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
6 licensee's conduct departs from the applicable standard of care, each departure
7 constitutes a separate and distinct breach of the standard of care.

8 (d) Incompetence.

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

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

13 (g) The failure by a certificate holder, in the absence of good cause, to attend
14 and participate in an interview by the board. This subdivision shall only apply to a
15 certificate holder who is the subject of an investigation by the board.

16 7. Section 726 of the Code states:

17 (a) The commission of any act of sexual abuse, misconduct, or relations with a
18 patient, client, or customer constitutes unprofessional conduct and grounds for
19 disciplinary action for any person licensed under this or under any initiative act
20 referred to in this division.

21 (b) This section shall not apply to consensual sexual contact between a licensee
22 and his or her spouse or person in an equivalent domestic relationship when that
23 licensee provides medical treatment, to his or her spouse or person in an equivalent
24 domestic relationship.

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Gross Negligence)

27 8. Respondent's license is subject to disciplinary action under section 2234, subdivision
28 (b), of the Code in that he committed gross negligence in his care and treatment of Patient 1.¹

The circumstances are as follows:

9. At all times relevant to the allegations herein, Respondent was a licensed physician
and surgeon practicing as an urologist.

10. Patient 1, then a 46-year-old male, was referred to Respondent by his primary care
physician for kidney issues. On January 22, 2019, Patient 1 first presented to Respondent.
Patient 1 requested a Korean translator, however, Respondent denied the request and stated that
Patient 1's English was good. When taking a history, Respondent asked questions regarding

¹ The patient is referred to by number to protect his privacy.

1 Patient 1's dating activity and frequency of masturbation that Patient 1 felt were inappropriate.

2 11. During the visit, Respondent hugged Patient 1 multiple times and whispered multiple
3 times, "Asian people love hugs," or similar words to that effect. Respondent also caressed Patient
4 1's face. After Patient 1 lay down on his back on the examination table, Respondent unbuttoned
5 and pulled down Patient 1's pants without warning or explanation. Respondent then stroked
6 Patient 1's penis with his bare hands and asked him how it felt.

7 12. Patient 1 was subsequently sent to the waiting room for approximately 15 minutes.
8 Respondent was escorted back to the examination room by a nurse who then left. When
9 Respondent entered the examination room, he repeated "Asian people love hugs," and began
10 caressing Patient 1's face. Respondent hugged Patient 1 and asked him to hug back harder.
11 Respondent touched Patient 1's hip and buttock underneath his pants and underwear with his bare
12 hand. Respondent then turned Patient 1 around so his back was facing Respondent, placed his
13 bare right hand inside the front of Patient 1's pants and underwear, and groped his penis.
14 Respondent turned Patient 1 around again and kissed him on the lips, placing his tongue inside
15 Patient 1's mouth.

16 13. Respondent told Patient 1 to return in 2 weeks. Patient 1 did not return to
17 Respondent's office.

18 14. When taking a history of a patient, the standard of care calls for accurate
19 communication in order to provide appropriate care to the patient. Respondent's failure to use an
20 interpreter was an extreme departure from the standard of care.


21 15. When performing a physical examination, it is the standard of care to be respectful,
22 especially when the examination requires touching of the genital area. It was inappropriate for
23 Respondent to hug, kiss, and fondle Patient 1. Respondent's inappropriate touching of Patient 1
24 was an extreme departure from the standard of care.

25 16. Respondent's acts and/or omissions as set forth in paragraphs 9 through 15, inclusive,
26 above, whether proven individually, jointly, or in any combination thereof, constitute gross
27 negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline
28 exists.

1 of probation monitoring and to disclose the disciplinary order to patients pursuant to section
2 2228.1 of the Code; and

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

4
5 DATED: OCT 27 2020



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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