

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

In the Matter of the Accusation Against:

Gerald Hla Myint, M.D.

Physician's and Surgeon's
Certificate No. A 96837

Respondent.

Case No. 800-2019-055112

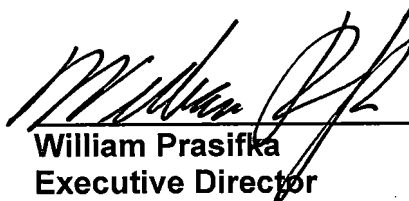
DECISION

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 12, 2021.

IT IS SO ORDERED March 5, 2021.

MEDICAL BOARD OF CALIFORNIA



William Prasifka
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 REBECCA D. WAGNER
Deputy Attorney General
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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:
13 **GERALD HLA MYINT, M.D.**
27206 Calaroga Ave.
14 Hayward CA 94545-4300
15
16 **Physician's and Surgeon's Certificate No. A**
96837
17 Respondent.

Case No. 800-2019-055112

**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 the State of California, by Rebecca D. Wagner,
25 Deputy Attorney General.

26 2. Gerald Hla Myint, M.D. (Respondent) is represented in this proceeding by attorney
27 Cyrus A. Tabari, whose address is: Sheuerman, Martini, Tabari, Zenere & Garvin, 1033 Willow
28 St., San Jose, CA 95125.

1 **ORDER**

2 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 96837,
3 issued to Respondent Gerald Hla Myint, M.D., is surrendered and accepted by the Board.

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

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

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

12 4. If Respondent ever files an application for licensure or a petition for reinstatement in
13 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
14 comply with all the laws, regulations and procedures for reinstatement of a revoked or
15 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
16 contained in Accusation No. 800-2019-055112 shall be deemed to be true, correct and admitted
17 by Respondent when the Board determines whether to grant or deny the petition.

18 5. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation, No. 800-2019-055112 shall
21 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
22 Issues or any other proceeding seeking to deny or restrict licensure.

23 **ACCEPTANCE**

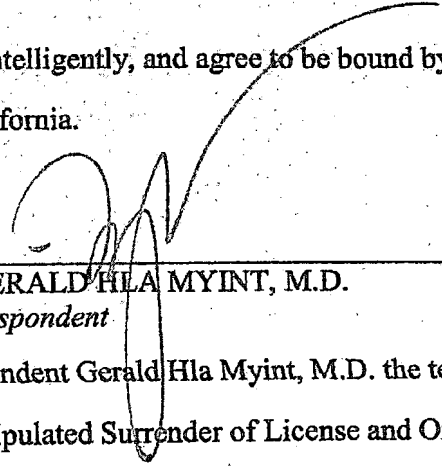
24 I have carefully read the above Stipulated Surrender of License and Order and have fully
25 discussed it with my attorney Cyrus A. Tabari. I understand the stipulation and the effect it will
26 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of

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1 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
2 Decision and Order of the Medical Board of California.

3
4 DATED: 02/05/2021


GERALD HLA MYINT, M.D.
Respondent

6 I have read and fully discussed with Respondent Gerald Hla Myint, M.D. the terms and
7 conditions and other matters contained in this Stipulated Surrender of License and Order. I
8 approve its form and content.

9 DATED: 2/11/2021


CYRUS A. TABARI
Attorney for Respondent

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12 **ENDORSEMENT**

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

15 DATED: February 16, 2021

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

Rebecca D. Wagner
REBECCA D. WAGNER
Deputy Attorney General
Attorneys for Complainant

23 SF2020200369
24 Gerald Hla Myint, M.D. Stipulated Surrender of License and Order

Exhibit A

Accusation No. 800-2019-055112

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MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2019-055112

13 **Gerald Hla Myint, M.D.**
14 **27206 Calaroga Ave.**
Hayward, CA 94545-4300

A C C U S A T I O N

15
16 **Physician's and Surgeon's Certificate**
No. A 96837,

17 Respondent.
18

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20 **PARTIES**

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

24 2. On or about August 11, 2006, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 96837 to Gerald Hla Myint, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on February 28, 2022, unless renewed.

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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 license revoked or suspended for a period not to exceed one
7 year, be 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 2234 of the Code, states:

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

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

15 "..."

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

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

19 "..."

20 6. Section 2228.1(a)(1)(A) of the Code provides that the Board shall require a licensee
21 to provide a separate disclosure to patients that includes the licensee's probation status, the length
22 of the probation, the probation end date, all practice restrictions placed on the licensee by the
23 Board, the Board's telephone number, and an explanation of how the patient can find further
24 information on the licensee's probation before the patient's first visit in any final adjudication by
25 the Board establishing the commission of any act of sexual abuse or misconduct as defined in
26 sections 726 of the Code.

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1 where that other person has a reasonable expectation of privacy, with the intent to invade the
2 privacy of that other person is guilty of a misdemeanor.

3 12. Section 311.11 of the Penal Code provides that every person who knowingly possesses
4 any data or image, including, but not limited to, any film, photograph, photocopy, videotape, data
5 storage media, or computer-generated image which involves the use of a person under 18 years of
6 age, knowing, that the matter depicts a person under 18 years of age personally engaging in or
7 simulating sexual conduct is guilty of a felony.

8 FACTUAL ALLEGATIONS

9 13. Respondent is a general practitioner treating adult patients who, beginning in 2007,
10 worked first at California Cardiovascular Consultants (CCC) which was then divided into a
11 separate business, East Bay Cardiovascular (EBC), where he worked thereafter.

12 14. On February 13, 2019, Respondent was interviewed by the Federal Bureau of
13 Investigation (FBI). During the interview, unrelated to the FBI investigation¹, Respondent
14 admitted that he had created and maintained videos and pictures of his female staff, coworkers,
15 and patients for his pleasure. Initially, however, he lied to the federal agents: claiming he filmed
16 his employees to see if they were busy and his patients to avoid liability for possible misconduct
17 claims. Respondent admitted he never asked permission from his female staff or patients to
18 photograph or videotape them, and that he never videotaped or photographed his male patients.

19 15. Respondent described in detail that, for approximately a year, he placed his phone in
20 his shirt pocket with the camera facing outwards and started the video before entering the
21 treatment room of his female patients. He admitted he took videos of women with a “nice shape”
22 illustrating with his hands an hour-glass shape. He also eventually admitted lying that he took the
23 videos for liability purposes.

24 16. Respondent also admitted to taking pictures of females in public places, without their
25 knowledge or consent, because he liked the way they looked.

26
27 ¹ Respondent has subsequently been indicted on federal charges for violation of 42 U.S.C.
28 § 1320a-7b(b)(2)(A) for illegally influencing patient referrals for federally funded health care
through payments. *United States of America v. GERALD MYINT*, Case No. 19-71448, United
States District Court, for the Northern District of California.

1 17. Respondent further admitted that he had received and viewed child pornography
2 which was sent to him by his friends approximately two to three times a week for the past year,
3 albeit he denied enjoying it and stated that he deleted those images. Respondent did, however,
4 admit that he knew child pornography was illegal.

5 18. Respondent admitted that the videos and photos he took were so that he could view
6 them later to bring himself pleasure.

7 19. The FBI provided a Board Investigator with a flash drive taken from Respondent's
8 cell phone which contained approximately 18,500 pictures and approximately 1,766 videos with
9 sound, most of which were pornography². Three possible patients were identified from the
10 images.

11 20. On January 10, 2020, Patient P-1³ was interviewed and she stated that Respondent
12 had been her primary care physician for many years, and that she had no concerns or complaints
13 related to his care. Patient P-1 viewed images from Respondent's phone and confirmed that some
14 videos and pictures were of her. She did not recall any recording device during exams, was not
15 informed she was being recorded or photographed, and did not consent to being recorded or
16 photographed.

17 21. On January 16, 2020, Patient P-2 was interviewed and said she saw Respondent only
18 a few times for lower back and sciatica pain approximately one year prior. Patient P-2 viewed
19 images from Respondent's phone and identified herself. Patient P-2 was stunned by the images.
20 She was not informed she was being recorded or photographed, and said she never gave
21 Respondent permission to videotape or photograph her.

22 22. On January 16, 2020, Patient P-3 was interviewed and said Respondent had been her
23 primary care physician for many years. She confirmed images of herself and her children from
24 Respondent's phone. Although she does not remember seeing any recording device on
25 Respondent, she does remember him using his cell phone as a flashlight once during an office

26 ² Although Respondent admitted to possessing and viewing child pornography, none was
27 located in the contents of the flash drive taken from his cell phone.

28 ³ In order to protect patient confidentiality and privacy, patients will be identified as
Patients P-1 to P-3. Respondent knows who these patients are and, if not, can identify them
through the discovery process.

1 visit and thought it unusual. Patient P-3 was never informed she and her children were being
2 recorded or photographed, and she did not consent to being recorded or photographed.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct: Sexual Misconduct and Abuse)**

5 23. Respondent is subject to disciplinary action under Section 2234 and/or 2234,
6 subdivision (a) and/or subdivision (f) for Unprofessional Conduct and/or Section 726 of the Code
7 in that he engaged in Sexual Misconduct and Sexual Abuse of Patients P-1, P-2, and P-3, as
8 outlined above in Paragraphs 14 through 22. Respondent, by photographing and videotaping his
9 patients during their exams, without their knowledge or consent, for his own later sexual pleasure,
10 exploited his patients for his own gratification and has committed Unprofessional Conduct and/or
11 Sexual Misconduct and Abuse, and his conduct is cause for discipline pursuant to sections 2234
12 and/or 2234(a) and/or (f) and/or 726 of the Code.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct: Lying to Federal Agents)**

15 24. Respondent is subject to disciplinary action for Unprofessional Conduct under
16 Section 2234 and/or section 2234, subdivision (a) and/or subdivision (e) and/or subdivision (f) in
17 that he lied to federal agents during the course of a criminal investigation, as outlined above in
18 Paragraphs 14 through 22. Respondent, by lying to the FBI and claiming to film and photograph
19 his patients to protect against liability, and his employees to ensure they were working, when
20 instead he did so to pleasure himself, has committed Unprofessional Conduct, and his conduct is
21 cause for discipline pursuant to sections 2234 and/or 2234(a) and/or 2234(e) and/or 2234 (f) of
22 the Code.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct: Privacy Act Violations, Recording Confidential
25 Communications)**

26 25. Respondent is subject to disciplinary action for Unprofessional Conduct under
27 Sections 2234 and/or 2234, subdivision (a) and/or subdivision (f) of the Code (Unprofessional
28 Conduct). Respondent abused his position as a physician and surgeon to violate numerous

1 provisions of law including: section 632(a) of the Penal Code (Recording Confidential
2 Communications) and/or section 647(j)(1)-(3)(A) of the Penal Code (Privacy Act Violations) in
3 that he recorded the confidential communications of his patients and/or their physical exams for
4 his sexual interest, as outlined above in Paragraphs 14 through 22.

5 **FOURTH CAUSE OF DISCIPLINE**

6 **(Unprofessional Conduct: Possession of Child Pornography)**

7 26. Respondent is subject to disciplinary action under Section 2234 and/or 2234,
8 subdivision (a) and/or subdivision (f) of the Code (Unprofessional Conduct). He demonstrated
9 unprofessional conduct and unfitness to practice by his violation of section 311.11 of the Penal
10 Code (Possession of Child Pornography) in that he viewed child pornography on multiple
11 occasions as outlined in Paragraph 17, above.

12
13 **PRAYER**

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

16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 96837,
17 issued to Gerald Hla Myint, M.D.;

18 2. Revoking, suspending or denying approval of Gerald Hla Myint, M.D.'s authority to
19 supervise physician assistants and advanced practice nurses;

20 3. Ordering Gerald Hla Myint, M.D., if placed on probation, to pay the Board the costs
21 of probation monitoring;

22 4. Ordering Gerald Hla Myint, M.D., if placed on probation and found to have
23 committed any act of sexual abuse or misconduct to provide patient disclosure pursuant to
24 Section 2228.1(a)(1)(A) of the Code: and

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

DATED: JUN 25 2020



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

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Myint.gerald.accusation