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

In the Matter of the Second Amended Accusation Against: Bradley Davis Smith, M.D. Physician's and Surgeon's Certificate No. G 66535 Respondent.	Case No. 800-2017-037738

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 January 1, 2022.

IT IS SO ORDERED December 28, 2021.

MEDICAL BOARD OF CALIFORNIA

for: William Prasifka
Executive Director

Reji Varghese
Deputy Director

ROB BONTA
Attorney General of California
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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 Second Amended Accusation Against: BRADLEY DAVIS SMITH, M.D. 1106 South Pacific Coast Highway Redondo Beach, CA 90277 Physician's and Surgeon's Certificate No. G 66535, Respondent.	Case No. 800-2017-037738 OAH No. 2019100488 **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 Rob Bonta, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney General.

2. Bradley Davis Smith, M.D. (Respondent) is represented in this proceeding by attorney Peter R. Osinoff of Bonne, Bridges, Mueller, O'Keefe and Nichols 355 South Grand

Avenue, Suite 1750, Los Angeles, CA 90071-1562.

3. On July 31, 1989, the Board issued Physician's and Surgeon's Certificate No. G 66535 to Bradley Davis Smith, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-037738 and will expire on November 30, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-037738 was filed before the Board on August 16, 2019, and was properly served on Respondent, along with all other statutorily required documents. Respondent filed a timely Notice of Defense contesting the Accusation. An Amended Accusation was filed on February 19, 2020. A Second Amended Accusation was filed on July 7, 2021, and is currently pending against Respondent. A copy of Second Amended Accusation No. 800-2017-037738 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 800-2017-037738. 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 his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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 Second Amended

Accusation No. 800-2017-037738, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Second Amended 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 Second Amended Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board pursuant to Business and Professions Code section 2224 (b) to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process and hereby surrenders his Physician's and Surgeon's Certificate No. G 66535 for the Board's formal acceptance.

CONTINGENCY

11. 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 his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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.

OTHER AGREEMENTS

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

13. The parties understand and agree that Respondent's license surrender will become effective January 1, 2022.

14. In consideration of the foregoing admissions and stipulations, the parties agree that

the Board may, without further notice or formal proceeding, pursuant to Business and Professions Code section 2224 (b), issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. G 66535, issued to Respondent Bradley Davis Smith, 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 in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his 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 Second Amended Accusation No. 800-2017-037738 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 Second Amended Accusation, No. 800-2017-037738 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 Peter R. Osinoff. 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: 12-3-21

BRADLEY DAVIS SMITH, M.D.
Respondent

I have read and fully discussed with Respondent BRADLEY DAVIS SMITH, 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: 12/2/2021

PETER R. OSINOFF
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: November 2, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

Wendy Widlus

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Second Amended Accusation No. 800-2017-037738

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

In the Matter of the Second Amended Accusation Against: **Bradley Davis Smith, M.D.** **1106 South Pacific Coast Highway** **Redondo Beach, CA 90277** **Physician's and Surgeon's Certificate No. G 66535,** Respondent.	Case No. 800-2017-037738 **SECOND AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. William J. Prasifka (Complainant) brings this Second Amended Accusation solely in his official capacity as the Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about July 31, 1989, the Board issued Physician's and Surgeon's Certificate Number G 66535 to Bradley Davis Smith, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2022, unless renewed.

JURISDICTION

3. This Second Amended 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 2228.1 of the Code, states:

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

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

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

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

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

(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 contendre 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.

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

(1) The patient is unconscious or otherwise unable to comprehend the 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 sign the copy.

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

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

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

(d) On and after July 1, 2019, the board shall provide the following 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.

(1) For probation imposed pursuant to a stipulated settlement, the causes 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 the settlement is not an admission of guilt.

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

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

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

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

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

7. 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:

(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.

. . .

(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.

. . .

8. 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 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

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

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.

9. Section 726 of the Code states, in relevant part:

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

10. Section 729 of the Code states:

(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor is a public offense:

(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) An act or acts in violation of subdivision (a) with two or more victims shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(4) Two or more acts in violation of subdivision (a) with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one

thousand dollars ($1,000), or by both that imprisonment and fine.

(5) An act or acts in violation of subdivision (a) with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000).

For purposes of subdivision (a), in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.

(c) For purposes of this section:

(1) "Psychotherapist" has the same meaning as defined in Section 728.

(2) "Alcohol and drug abuse counselor" means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.

(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.

(d) In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(e) This section does not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

(f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in a professional partnership or similar group has sexual contact with a patient in violation of this section, another physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in the partnership or group shall not be subject to action under this section solely because of the occurrence of that sexual contact.

11. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

12. 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.

13. 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."

REGULATORY PROVISIONS

14. 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

15. California Penal Code section 243.4, states, in relevant part:

. . .

(e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars ($2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars ($2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim."

. . .

(g) As used in this section, the following terms have the following meanings:

(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

. . .

16. California Penal Code section 647 states, in relevant part:

Except as provided in subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

. . .

FACTUAL ALLEGATIONS

17. On or about October 24, 2017, the Board was notified by the Los Angeles County Superior Court that Respondent had been arrested on March 27, 2017, and charged with a misdemeanor violation of Penal Code section 243.4, subdivision (e)(1), touching an intimate part of another person, against the will of the person touched, for the purpose of sexual arousal, sexual gratification or sexual abuse.

18. On October 17, 2017, Respondent pled no contest to a violation of Penal Code section 647, subdivision (a), engaging in lewd or dissolute conduct in any public place or in any place exposed to public view, as a misdemeanor. The Court placed Respondent on summary probation for 36 months, with terms and conditions of probation which included, inter alia, a protective order regarding the victim, and enrollment in and successful completion of a 52 week Professional Boundaries and Ethics class.

19. The facts and circumstances of the above conviction are as follows.

20. As alleged in the certified Redondo Beach Police Department (RBPD) report, Patient 1[2] came into the RBPD and reported a possible sex crime which she alleged occurred March 27, 2017. Patient 1 stated she had previously met Respondent during her job as a representative for a pharmaceutical company. Patient 1 decided to use him as her doctor at that time and continued to see Respondent for medical care at his family and urgent care practice thereafter.

21. On or about March 27, 2017, Patient 1 was in Respondent's office for examination and treatment of her adult son. During that visit Respondent placed his arm around her waist, pulled her in close to him with a hand on her buttocks, with his groin against hers, twice attempted to kiss her on the lips, and in so doing touched Patient 1 within the meaning of Penal Code section 243.4, subdivision (e)(2). As Respondent grabbed Patient 1 he thrust his tongue into Patient 1's mouth.

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[2] The name of the patients and any witnesses are abbreviated to protect privacy rights. The names will be provided to Respondent upon written request for discovery.

22. Despite Patient 1 telling Respondent to stop, he attempted to kiss her two additional times. Patient 1 told Respondent she was married and he responded that he was too, and he wasn't trying to hurt either of their marriages.

23. On or about March 28, 2017, Patient 1 received a text message on her cellular telephone from Respondent, stating he would like to meet her, that she was sensual, and asked if she'd like to exchange "naughty" pictures. Patient 1 did not respond to Respondent's text and Respondent did not send her any additional messages.

24. On or about August 16, 2019, the Medical Board of California filed Accusation Case No. 800-2017-037738 against Respondent, which included a request for discovery pursuant to Government Code section 11507.6.

25. On or about August 30, 2019, Deputy Attorney General Wendy Widlus (Deputy Attorney General Widlus) received Respondent's Notice of Defense and Request for discovery from Respondent's attorney.

26. On or about January 14, 2020, Respondent's attorney provided Deputy Attorney General Widlus with notice that Respondent sent Patient 1 a termination of care letter in December 2016.

27. On or about January 22, 2020, Respondent's attorney provided Deputy Attorney General Widlus with discovery of the termination of care letter which consisted of a single page letter dated December 9, 2016, written on Respondent's family and urgent care practice stationary addressed to Patient 1. The letter read in part, ". . . and then going over your Echo and medical results I think it's probably better that I not see you for your personal care and prescriptions." The letter had a handwritten first name signature over Respondent's typed full name and professional designation of M.D.

28. On or about February 11, 2020, a Department of Consumer Affairs Health Quality Investigations Unit [HQIU] Investigator interviewed Patient 1. During the interview the HQIU Investigator showed Patient 1 the single page termination of care letter dated December 9, 2016, written on Respondent's family and urgent care practice stationary. Patient 1 stated she had never seen that letter. Patient 1 stated Respondent had never terminated their doctor-patient

relationship.

29. On or about November 13, 2020, an HQIU Investigator and the Deputy Attorney General [DAG] assigned to the above matter interviewed Patient 2 via a conference call which was tape recorded.

30. Patient 2 said when she moved to California from New York, she was looking for a primary care physician. Patient 2 could not remember exactly when she went to Respondent's medical clinic, but thought it was in 2013 or 2014, and that her first appointment at Respondent's clinic was with Respondent.

31. Respondent told Patient 2 that due to her age she should have a breast examination. Patient 2, who had undergone previous breast examinations, believed she was wearing a gown during this examination, but was not certain. Other than Respondent and Patient 2, there was no one else in the room during the breast examination.

32. During the breast examination, Respondent asked Patient 2 to lay down and examined her breasts one at a time. Respondent did not say anything during the examination and Patient 2 believed Respondent lingered longer than was necessary to complete the breast examination. Patient 2 stated the breast examination took him longer than any other breast examination she had ever experienced.

33. After Respondent finished the breast examination, Patient 2 sat up while Respondent checked her reflexes by hitting various parts of her body with a "triangle" tool. While Respondent was checking her reflexes, Respondent put his hand on Patient 2's thigh, which felt inappropriate to Patient 2.

34. Patient 2's examination lasted approximately 45 minutes. Respondent spent most of the 45 minutes asking Patient 2 questions about her personal life. Thereafter, Patient 2 found it very unusual that Respondent called her on her cell phone while she was driving home from the appointment. When Respondent called, he told her he was "there for her" and if she ever needed anything to call him, which Patient 2 found extremely strange.

35. A month later, Patient 2 had not been able to locate a different physician so she returned to Respondent's clinic for another appointment with Respondent. Patient 2, who is an

actress, found Respondent waiting for her with one of her "headshots" he had printed out and placed into a frame. Respondent immediately asked Patient 2 to sign the photograph. Patient 2 believed Respondent must have Googled her name, looked into her background and discovered she was an actress, which made her feel very uncomfortable.

36. Patient 2 thereafter asked the clinic staff to make future appointments with another doctor because she found Respondent's behavior "weird." After Patient 2 began seeing another physician who worked at Respondent's clinic, Patient 2 told that physician she was not comfortable with Respondent, but did not go into details about why she was uncomfortable.

37. Patient 2 said that on one occasion, Respondent came over to her and gave her a "bear hug" and when Respondent did that she questioned herself, wondering if this was normal, appropriate behavior.

38. Patient 2 said that whenever she went to other physicians at Respondent's medical clinic, if Respondent saw her in the clinic, he would find a reason to come over to her to rub her back or her shoulders like a "serial creeper." Patient 2 told her parents, older sister, and a friend about how uncomfortable Respondent's behavior made her feel.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

39. Respondent is subject to disciplinary action under Code section 2236 in that he was convicted of a crime which is substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

40. The facts and circumstances alleged in paragraphs 17 through 23 above are incorporated herein as if fully set forth.

SECOND CAUSE FOR DISCIPLINE

(Commission of Acts of Sexual Abuse and/or Misconduct Against Patient 1)

41. Respondent is subject to disciplinary action under Code section 726 of the Code, and to discipline by the Board under section 2234 of the Code in that Respondent committed sexual abuse and/or misconduct on Patient 1. The circumstances are as follows:

42. The facts and circumstances alleged in paragraphs 17 through 23 above are

incorporated herein as if fully set forth.

THIRD CAUSE FOR DISCIPLINE

(Commission of Acts of Sexual Abuse and/or Misconduct Against Patient 1)

43. Respondent is subject to disciplinary action under Code section 729 in that he committed acts of sexual exploitation with respect to Patient 1. The circumstances are as follows:

44. The facts and circumstances alleged in paragraphs 17 through 23 above are incorporated herein as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Creation of a False Medical Record)

45. Respondent is subject to disciplinary action under Code sections 2261 and 2234, subdivision (e) in that Respondent created a false medical record. The circumstances are as follows:

46. Respondent created a false medical record when Respondent created a single page termination of care letter addressed to Patient 1, which was never provided to Patient 1 or acknowledged by Respondent, on or about March 27, 2017, when Patient 1 was in Respondent's office during her adult son's examination and treatment.

FIFTH CAUSE FOR DISCIPLINE

(Corrupt Acts of Sexual Exploitation of Patients)

47. Respondent is subject to disciplinary action under Code section 2234, subdivision (e) for committing corrupt acts in his care and treatment of Patient 1. The circumstances are as follows:

48. The facts and circumstances alleged in paragraphs 17 through 27 above are incorporated herein as if fully set forth.

SIXTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

49. Respondent is subject to disciplinary action under section 2234 of the Code, generally, in that he committed unprofessional conduct. The circumstances are as follows:

50. The facts and circumstances alleged in paragraphs 17 through 38 above are

incorporated herein as if fully set forth.

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 G 66535, issued to Bradley Davis Smith, M.D.;

2. Revoking, suspending or denying approval of Bradley Davis Smith, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Bradley Davis Smith, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Bradley Davis Smith, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: JUL 07 2021

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

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