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

In the Matter of the Accusation Against:	Case No. 800-2017-031230
EDGAR ESTUARDO MANZANERA, M.D. **P. O. Box 653** **San Luis Rey, CA 92068**	**DEFAULT DECISION AND ORDER**
Physician's and Surgeon's Certificate No. A 127017,	[Gov. Code, § 11520]
Respondent.	

FINDINGS OF FACT

1. On or about October 23, 2019, Complainant, the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 800-2017-031230 against Edgar Estuardo Manzanera, M.D. (Respondent) before the Medical Board of California.

2. On or about August 21, 2013, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 127017 to 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 August 31, 2021, unless renewed. A Certification of Licensure for Respondent's Physician's and Surgeon's Certificate No. A 127017 is attached hereto as Exhibit A.

3. On or about October 23, 2019, Dianne Richards, an employee of the Board, served by Certified Mail a copy of the Accusation No. 800-2017-031230, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is P.O. Box 653, San Luis Rey, CA 92068. The Accusation, the related documents, and Declaration of Service are attached as Exhibit B, and are incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about October 31, 2019, the Board received the U.S. Postal Service certified mail return receipt for the aforementioned documents stating that the documents were received by Respondent. The certified mail return receipt is attached hereto as Exhibit C, and is incorporated herein by reference.

6. On or about November 7, 2019, Ryan Tegnelia, Esq. (Tegnelia)— Respondent's attorney of record in the case entitled *The People of the State of California v. Edgar Manzanera*, Superior Court, County of San Diego, Case No. CN387289—contacted Complainant's counsel via telephone and advised Complainant's counsel that Respondent had received documents from Complainant, that Tegnelia had not yet reviewed such documents, and that Tegnelia had been informed that the deadline to respond was upcoming. Complainant's counsel confirmed to Tegnelia that Respondent had been served with Accusation No. 800-2017-031230 and accompanying documents, as described in paragraph 3, above. Following the telephone call, Complainant's counsel sent to Tegnelia via email a copy of such documents. (Exhibit D, Declaration of Deputy Attorney General Giovanni F. Mejia [DAG Mejia Decl.], ¶ 3.)

7. Respondent failed to timely file a Notice of Defense. (See Exhibit D, DAG Mejia Decl., ¶¶ 2 through 7.)

8. On or about November 15, 2019, Complainant's counsel left a voicemail with Tegnelia inquiring as to the status of Respondent's response, if any, to the Accusation. Complainant's counsel did not receive a response to this voicemail (Exhibit D, DAG Mejia Decl., ¶ 4.)

9. On or about December 16, 2019, Complainant served copies of a Courtesy Notice of Default on Respondent at his address of record with the Board via first-class and certified mail, and on Tegnelia via first-class mail. The Courtesy Notice of Default included copies of the Accusation and Notice of Defense form previously served on Respondent. The Courtesy Notice of Default, Accusation, Notice of Defense form and Declaration of Service are attached hereto as Exhibit E, and are incorporated herein by reference.

10. On or about December 16, 2019, Complainant's counsel sent a copy of the Courtesy Notice of Default and accompanying documents to Tegnelia via email. (Exhibit D, DAG Mejia Decl., ¶ 9.)

11. To date, Respondent has failed to file a Notice of Defense. (See Exhibit D, DAG Mejia Decl., ¶ 10.)

12. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

13. Respondent failed to timely file a Notice of Defense after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 800-2017-031230.

14. California Government Code section 11520 states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

15. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B, C, D, E, F and G attached hereto in the Evidence Packet in Support of Default Decision and Order, and finds that the allegations in Accusation No. 800-2017-031230, and each of them, separately and severally, are true.

JURISDICTION

16. Accusation No. 800-2017-031230 was 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.

17. Section 2227, subdivision (a) of the Code states:

> 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.

18. Section 726, subdivision (a) of the Code states:

> 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.

19. Section 729 of the Code states, in pertinent part:

> (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:

...

(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.

20. Section 2246 of the Code states:

Any proposed decision or decision issued under this article that contains any finding of fact that the licensee engaged in any act of sexual exploitation, as described in paragraphs (3) to (5), inclusive, of subdivision (b) of Section 729, with a patient shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

21. Section 2236 of the Code states, in pertinent part:

(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.

...

(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 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.

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

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.

....

23. Respondent has subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action under sections 2227, 2234 and 726 of the Code in that he committed one or more acts of sexual abuse, misconduct, or relations with a patient, client, or customer as more particularly described hereinafter:

24. On January 14, 2015, the patient identified as "Patient A" in Accusation No. 800-2017-031230 (Patient A) presented to Respondent for a medical examination in connection with U.S. Department of Veteran Affairs (VA) disability benefit claims. During the course of the examination, Respondent told Patient A that he needed to perform a gynecological examination. Patient A stated that she did not want to have a gynecological examination because she had just started her menstrual cycle. Respondent insisted on performing a gynecological examination and stated that otherwise there could be delays with the processing of Patient A's disability benefit claims. Respondent thereafter touched Patient A's genitalia under the guise of performing a gynecological examination. Respondent's purported gynecological examination was not consistent with gynecological examinations that Patient A had previously received from other healthcare providers. Further, a gynecological examination was not indicated or otherwise medically necessary during Patient A's appointment with Respondent on January 14, 2015. (Declaration of Supervising Investigator Eric Ryan [Sup. Inv. Ryan Decl.], ¶¶ 1 through 7, attached hereto as Exhibit F; see also Complaint, Guilty Plea and Pronouncement of Judgment in the case entitled *The People of the State of California v. Edgar Manzanera,* Superior Court, County of San Diego, Case No. CN387289 [Court Records], true and correct copies of which are attached hereto as Exhibit G.)

25. On January 20, 2015, the patient identified as "Patient B" in Accusation No. 800-2017-031230 (Patient B) presented to Respondent for a medical examination in connection with VA disability benefit claims. In the course of Respondent's medical appointment with Patient B on or about January 20, 2015, Respondent touched Patient B's breasts and genitalia under the guise of performing a gynecological examination. During the course of Respondent's purported gynecological examination of Patient B, Respondent inappropriately touched Patient B's breasts or genitalia, or both. A gynecological examination was not indicated

or otherwise medically necessary during Patient B's appointment with Respondent on January 20, 2015. (Exhibit F, Sup. Inv. Ryan Decl., ¶¶ 1 through 6, and 8; see also Exhibit G, Court Records.)

26. On March 10, 2015, the patient identified as "Patient C" in Accusation No. 800-2017-031230 (Patient C) presented to Respondent for a medical examination in connection with VA disability benefit claims. At or near the outset of the examination, Patient C was instructed to disrobe down to her bra and underpants and put on a medical gown. Patient C had not had to do that for prior medical examinations in connection with VA disability benefit claims. Patient C eventually complied with the instruction. Respondent thereafter entered the examination room and proceeded to interview Patient C and perform a physical examination of Patient C. During the course of the examination, Respondent touched Patient C's inguinal and perianal regions with a paperclip or other similar instrument. Touching of Patient C's inguinal or perianal region was not indicated or otherwise medically necessary during Patient C's appointment with Respondent on March 10, 2015. (Exhibit F, Sup. Inv. Ryan Decl., ¶¶ 1 through 6, and 9; see also Exhibit G, Court Records.)

27. On March 16, 2015, the patient identified as "Patient D" in Accusation No. 800-2017-031230 (Patient D) presented to Respondent for a medical examination in connection with VA disability benefit claims. At or near the outset of the appointment, Patient D was instructed to disrobe down to her bra and underpants and put on a medical gown. Patient D complied with the instruction. Respondent thereafter entered the examination room and proceeded to interview Patient D and perform a physical examination of Patient D. During the course of the physical examination, Patient D's medical gown was slipping and Respondent stated that Patient D could take it off. Respondent proceeded to perform a portion of the physical examination with Patient D wearing only her bra and underpants. At or near the conclusion of the physical examination, Respondent told Patient D that he had to conduct a gynecological examination. Patient D stated to Respondent that she had had a gynecological examination within the three months prior. Respondent insisted on performing a gynecological examination and stated that otherwise Patient D could encounter problems with her VA disability benefits claims. Respondent thereafter touched Patient D's genitalia and breasts under the guise of performing a

gynecological examination. Respondent's purported breast examination of Patient D was inconsistent with breast examinations that Patient D had previously received from other healthcare providers. Further, a gynecological examination was not indicated or otherwise medically necessary during Patient D's appointment with Respondent on March 16, 2015. (Exhibit F, Sup. Inv. Ryan Decl., ¶¶ 1 through 6, and 10; see also Exhibit G, Court Records.)

28. On June 15, 2016, the patient identified as "Patient E" in Accusation No. 800-2017-031230 (Patient E) presented to Respondent for a medical examination in connection with VA disability benefit claims. At or near the outset of the appointment, Patient E was instructed to disrobe down to her bra and underpants and put on a medical gown. Patient E complied with the instruction. Respondent thereafter entered the examination room and proceeded to interview Patient E and perform a physical examination. At one point during the examination, Respondent stated to Patient E that he was going to perform a sensory examination. Respondent then used a long cotton swab or other similar instrument to touch Patient E along her arms and legs as a part of the sensory examination. At some point thereafter, Respondent instructed Patient E to lower her underpants and touched Patient E's genital and perianal areas with a long cotton swab or other similar instrument. Touching of Patient E's genital and perianal areas was not indicated or otherwise medically necessary during Patient E's appointment with Respondent on or about June 15, 2016. (Exhibit F, Sup. Inv. Ryan Decl., ¶¶ 1 through 6, and 11; see also Exhibit G, Court Records.)

29. On or about September 25, 2019, in the case entitled *The People of the State of California v. Edgar Manzanera*, Superior Court, County of San Diego, Case No. CN387289, Respondent was convicted upon his plea of guilty, to one felony count of violating Business and Professions Code section 729, subdivision (a) and the subdivision (b), paragraph (3) enhancement (sexual exploitation of two or more patients). (Exhibit G, Court Records.) In his guilty plea, Respondent admitted that he had committed an act of sexual contact with a patient on January 14, 2015; January 20, 2015; March 10, 2016; March 16, 2016; and June 15, 2016; and that he had committed these acts of sexual exploitation with five victims. (Exhibit G, Court Records.)

/ / / /

30. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action under sections 2227, 729 and 2246 of the Code in that he committed sexual exploitation of two or more patients as more particularly described in paragraphs 16 through 29, above, above, which are hereby incorporated by reference as if fully set forth herein.

31. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action under sections 2227, 2234 and 2236 of the Code in that he was convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon as more particularly described in paragraphs 16 through 30, above, which are hereby incorporated by reference as if fully set forth herein.

32. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 127017 to discipline under sections 2227 and 2234, subdivision (a) of the Code in that he committed one or more violations of the Medical Practice Act as more particularly described in paragraphs 16 through 31, above, which are hereby incorporated by reference as if fully set forth herein.

DETERMINATION OF ISSUES

1. Based on the foregoing Findings of Fact 1 through 32, above, Respondent Edgar Estuardo Manzanera, M.D. has subjected his Physician's and Surgeon's Certificate No. A 127017 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. Pursuant to its authority under California Government Code section 11520 and based on the evidence before it, the Board hereby finds that the charges and allegations contained in Accusation No. 800-2017-031230, and the Findings of Fact 1 through 32, above, and each of them, separately and severally, are true and correct.

4. Pursuant to its authority under Government Code section 11520, and by reason of the Findings of Fact 1 through 32, above, and Determination of Issues 1, 2, and 3, above, the Board hereby finds that Respondent Edgar Estuardo Manzanera, M.D. has subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action in that:

(a) Respondent committed sexual abuse, misconduct, or relations with Patient A, Patient B, Patient C, Patient D and Patient E, which constitutes unprofessional conduct and grounds for disciplinary action pursuant to sections 2227, 2234, and 726 of the Business and Professions Code;

(b) Respondent committed sexual exploitation of Patient A, Patient B, Patient C, Patient D and Patient E, which constitutes grounds for disciplinary action pursuant to sections 2227, 729 and 2246 of the Business and Professions Code;

(c) Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, which constitutes unprofessional conduct and grounds for disciplinary action pursuant to sections 2227, 2234 and 2236 of the Business and Professions Code; and

(d) Respondent committed one or more violations of the Medical Practice Act, which constitutes unprofessional conduct and grounds for disciplinary action pursuant sections 2227 and 2234, subdivision (a) of the Business and Professions Code.

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ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 127017, heretofore issued to Respondent Edgar Estuardo Manzanera, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 27, 2020 at 5:00 p.m.

It is so ORDERED January 28, 2020

CHRISTINE J. LALLY
INTERIM EXECUTIVE DIRECTOR
FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct 23 2019
BY D. Richards ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2017-031230
Edgar Estuardo Manzanera, M.D. **P. O. Box 653** **San Luis Rey, CA 92068** **Physician's and Surgeon's Certificate No. A 127017,** Respondent.	**A C C U S A T I O N**

PARTIES

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

2. On or about August 21, 2013, the Medical Board issued Physician's and Surgeon's Certificate No. A 127017 to Edgar Estuardo Manzanera, 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 August 31, 2021, unless renewed.

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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 2227, subdivision (a) of the Code states:

> 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.

5. Section 726, subdivision (a) of the Code states:

> 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.

6. Section 729 of the Code states, in pertinent part:

> (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:
>
> ...

(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.

7. Section 2246 of the Code states:

Any proposed decision or decision issued under this article that contains any finding of fact that the licensee engaged in any act of sexual exploitation, as described in paragraphs (3) to (5), inclusive, of subdivision (b) of Section 729, with a patient shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

8. Section 2236 of the Code states, in pertinent part:

(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.

...

(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 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 2234 of the Code states, in pertinent part:

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.

....

10. Section 2228.1 of the Code states, in pertinent part:

(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.

...

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

...

(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.

....

11. 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.

FIRST CAUSE FOR DISCIPLINE

(Commission of Act of Sexual Abuse or Misconduct with Patient or Client)

12. Respondent Edgar Estuardo Manzanera, M.D. has subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action under section 726 of the code in that he committed one or more acts of sexual abuse or misconduct with a patient or client. The circumstances are as follows:

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Patient A

13. On or about January 14, 2015, "Patient A"[1] presented to Respondent for a medical examination in connection with U.S. Department of Veteran Affairs ("VA") disability benefit claims.

14. During the course of the examination, Respondent told Patient A that he needed to perform a gynecological examination. Patient A stated that she did not want to have a gynecological examination because she had just started her menstrual cycle. Respondent insisted on performing a gynecological examination and stated that otherwise there could be delays with the processing of Patient A's disability benefit claims.

15. Respondent thereafter touched Patient A's genitalia under the guise of performing a gynecological examination.

16. Respondent's purported gynecological examination was not consistent with gynecological examinations that Patient A had previously received from other healthcare providers.

17. A gynecological examination was not indicated or otherwise medically necessary during Patient A's appointment with Respondent on or about January 14, 2015.

Patient B

18. On or about January 20, 2015, "Patient B" presented to Respondent for a medical examination in connection with VA disability benefit claims.

19. In the course of Respondent's medical appointment with Patient B on or about January 20, 2015, Respondent touched Patient B's breasts and genitalia under the guise of performing a gynecological examination.

20. During the course of Respondent's purported gynecological examination of Patient B, Respondent inappropriately touched Patient B's breasts or genitalia, or both.

21. A gynecological examination was not indicated or otherwise medically necessary during Patient B's appointment with Respondent on or about January 20, 2015.

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[1] Pseudonyms are used to refer to patients in the instant Accusation to preserve patient confidentiality. All patient identities are known to Respondent or will be provided to Respondent upon Complainant's receipt of a duly issued request for discovery.

Patient C

22. On or about March 10, 2015, "Patient C" presented to Respondent for a medical examination in connection with VA disability benefit claims.

23. At or near the outset of the examination, Patient C was instructed to disrobe down to her bra and underpants and put on a medical gown. Patient C had not had to do that for prior medical examinations in connection with VA disability benefit claims. Patient C eventually complied with the instruction.

24. Respondent thereafter entered the examination room and proceeded to interview Patient C and perform a physical examination of Patient C. During the course of the examination, Respondent touched Patient C's inguinal and perianal regions with a paperclip or other similar instrument.

25. Touching of Patient C's inguinal or perianal region was not indicated or otherwise medically necessary during Patient C's appointment with Respondent on or about March 10, 2015.

Patient D

26. On or about March 16, 2015, "Patient D" presented to Respondent for a medical examination in connection with VA disability benefit claims.

27. At or near the outset of the appointment, Patient D was instructed to disrobe down to her bra and underpants and put on a medical gown. Patient D complied with the instruction.

28. Respondent thereafter entered the examination room and proceeded to interview Patient D and perform a physical examination of Patient D. During the course of the physical examination, Patient D's medical gown was slipping and Respondent stated that Patient D could take it off. Respondent proceeded to perform a portion of the physical examination with Patient D wearing only her bra and underpants.

29. At or near the conclusion of the physical examination, Respondent told Patient D that he had to conduct a gynecological examination. Patient D stated to Respondent that she had had a gynecological examination within the three months prior. Respondent insisted on performing a

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gynecological examination and stated that otherwise Patient D could encounter problems with her VA disability benefits claims.

30. Respondent thereafter touched Patient D's genitalia and breasts under the guise of performing a gynecological examination.

31. Respondent's purported breast examination of Patient D was inconsistent with breast examinations that Patient D had previously received from other healthcare providers.

32. A gynecological examination was not indicated or otherwise medically necessary during Patient D's appointment with Respondent on or about March 16, 2015.

Patient E

33. On or about June 15, 2016, "Patient E" presented to Respondent for a medical examination in connection with VA disability benefit claims.

34. At or near the outset of the appointment, Patient E was instructed to disrobe down to her bra and underpants and put on a medical gown. Patient E complied with the instruction.

35. Respondent thereafter entered the examination room and proceeded to interview Patient E and perform a physical examination. At one point during the examination, Respondent stated to Patient E that he was going to perform a sensory examination. Respondent then used a long cotton swab or other similar instrument to touch Patient E along her arms and legs as a part of the sensory examination.

36. At some point thereafter, Respondent instructed Patient E to lower her underpants and touched Patient E's genital and perianal areas with a long cotton swab or other similar instrument.

37. Touching of Patient E's genital and perianal areas was not indicated or otherwise medically necessary during Patient E's appointment with Respondent on or about June 15, 2016.

Criminal Conviction

38. On or about September 25, 2019, in the case entitled *The People of the State of California v. Edgar Manzanera*, Superior Court, County of San Diego, Case No. CN387289, Respondent was convicted, upon his plea of guilty, to one felony count of violating Business and Professions Code section 729, subdivision (a) and the subdivision (b), paragraph (3) enhancement (sexual exploitation of two or more patients).

SECOND CAUSE FOR DISCIPLINE

(Sexual Exploitation of Patient or Client)

39. Respondent Edgar Estuardo Manzanera, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action under sections 729 and 2246 of the Code in that he committed sexual exploitation of multiple patients as more particularly alleged in paragraphs 12 to 38, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Conviction Related to the Qualifications, Functions or Duties of a Licensee)

40. Respondent Edgar Estuardo Manzanera, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action under section 2236 of the Code in that he was convicted of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon as more particularly alleged in paragraphs 12 to 38, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Violation or Attempting to Violate Any Provision of the Medical Practice Act)

41. Respondent Edgar Estuardo Manzanera, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 127017 to disciplinary action under section 2234, subdivision (a) and section 1360 of title 16 of the California Code of Regulations in that he violated or attempted to violate one or more provisions of the Medical Practice Act as more particularly alleged in paragraphs 12 to 40, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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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 No. A 127017, issued to Respondent Edgar Estuardo Manzanera, M.D.;

2. Revoking, suspending or denying approval of Respondent Edgar Estuardo Manzanera, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Edgar Estuardo Manzanera, M.D., if placed on probation, to pay the Board the costs of probation monitoring;

4. Ordering Respondent Edgar Estuardo Manzanera, M.D., if placed on probation, to disclose the disciplinary decision to patients pursuant to section 2228.1 of the Code; and

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

DATED: October 23, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant