

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

**In the Matter of the Accusation
Against:**

Shikha Garg, M.D.

Case No. 800-2018-040948

**Physician's & Surgeon's
Certificate No A 82372**

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary 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 June 4, 2020.

IT IS SO ORDERED May 5, 2020.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 JOHN S. GATSCHET
Deputy Attorney General
4 State Bar No. 244388
California Department of Justice
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 210-7546
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **SHIKHA GARG, M.D.**
2170 E. Bidwell St. Ste. 100
16 Folsom, CA 95630

17 Physician's and Surgeon's Certificate
No. A 82372

18 Respondent.
19

Case No. 800-2018-040948

OAH No. 2019091078

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Christine J. Lally ("Complainant") is the Interim Executive Director of the Medical
25 Board of California ("Board"). She brought this action solely in her official capacity and is
26 represented in this matter by Xavier Becerra, Attorney General of the State of California, by John
27 S. Gatschet, Deputy Attorney General.

28 ///

2. Respondent Shikha Garg, M.D. ("Respondent") is represented in this proceeding by attorney M. Bradley Wishek, whose address is: ROTHSCILD, WISHEK, & SANDS, LLP, 765 University Avenue, Sacramento, CA 95825

3. On or about March 21, 2003, the Board issued Physician's and Surgeon's Certificate No. A 82372 to Respondent. That Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-040948, and will expire on November 30, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-040948 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 30, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-040948 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-040948. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

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1 CULPABILITY

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 800-2018-040948, and that she has subjected her license to disciplinary action.

5 10. Respondent agrees that if she ever petitions for modification of these terms, or if a
6 subsequent Accusation is ever filed against her before the Board, all of the charges and
7 allegations contained in Accusation No. 800-2018-040948, shall be deemed true, correct, and
8 fully admitted by Respondent for purposes of any such proceeding or any other licensing
9 proceeding involving Respondent in the State of California.

10 11. Respondent agrees that her Physician's and Surgeon's Certificate No. A 82372 is
11 subject to discipline, and she agrees to be bound by the Board's imposition of discipline as set
12 forth in the Disciplinary Order below.

13 RESERVATION

14 12. Any and all admissions made by Respondent herein are only for the purposes of this
15 specific proceeding, or any other proceedings in which the Medical Board of California or other
16 professional licensing agency is involved, and shall not be admissible in any other criminal or
17 civil proceeding.

18 CONTINGENCY

19 13. This stipulation shall be subject to approval by the Medical Board of California.
20 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
21 Board of California may communicate directly with the Board regarding this stipulation and
22 settlement, without notice to or participation by Respondent or her counsel. By signing the
23 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
24 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
25 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
26 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
27 action between the parties, and the Board shall not be disqualified from further action by having
28 considered this matter.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
3 signatures thereto, shall have the same force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 **A. PUBLIC REPRIMAND**

9 **IT IS HEREBY ORDERED THAT** upon completion of the following course-work set
10 forth in Conditions B and D of the Disciplinary Order, the Physician's and Surgeon's Certificate
11 No. A 82372 issued to Respondent Shikha Garg, M.D. shall be and is hereby publicly
12 reprimanded pursuant to California Business and Professions Code section 2227, subdivision
13 (a)(4). This Public Reprimand, which is issued in connection with Accusation No. 800-2018-
14 040948, is as follows.

15 "On or about September 22, 2017, while treating Patient A, you failed to make a
16 mandated report of child abuse and/or child neglect to Child Protective Services and failed to
17 keep adequate medical records, as more fully described in Accusation No. 800-2018-040948."

18 **B. EDUCATION COURSE**

19 Within 60 calendar days of the effective date of this Decision, Respondent shall submit to
20 the Board or its designee for its prior approval educational program(s) or course(s) which shall
21 not be less than 30 hours. The educational program(s) or course(s) shall be aimed at correcting
22 any areas of deficient practice or knowledge and shall be Category I certified and/or Board
23 approved. The educational program(s) or course(s) shall be at Respondent's expense and shall be
24 in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.
25 Following the completion of each course, the Board or its designee may administer an
26 examination to test Respondent's knowledge of the course. Respondent shall successfully
27 complete all coursework and provide proof of completion of 30 hours of additional CME to the
28 Board within one year of the effective date of the Decision and Order.

1 Education coursework completed taken after the acts that gave rise to the charges in the
2 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
3 or its designee, be accepted towards the fulfillment of this condition if the education coursework
4 would have been approved by the Board or its designee had the course been taken after the
5 effective date of this Decision.

6 C. **MEDICAL RECORD KEEPING COURSE – Condition Satisfied**

7 Within 60 calendar days of the effective date of this Decision and Order, Respondent shall
8 enroll in a course in medical record keeping approved in advance by the Board or its designee.
9 Respondent shall provide the approved course provider with any information and documents that
10 the approved course provider may deem pertinent. Respondent shall participate in and
11 successfully complete the classroom component of the course not later than six (6) months after
12 Respondent's initial enrollment. Respondent shall successfully complete any other component of
13 the course within one (1) year of enrollment. The medical record keeping course shall be at
14 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
15 requirements for renewal of licensure and in addition to the education course requirements set
16 forth in Paragraph B of this disciplinary order.

17 A medical record keeping course taken after the acts that gave rise to the charges in the
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
19 or its designee, be accepted towards the fulfillment of this condition if the course would have
20 been approved by the Board or its designee had the course been taken after the effective date of
21 this Decision.

22 Respondent completed the UC San Diego School of Medicine Medical Record Keeping
23 Course over two days on May 2-3, 2019, and this medical record keeping course condition has
24 been satisfied by Respondent's attendance at that course. Respondent shall provide a copy of her
25 completion certificate to the Medical Board of California within thirty (30) calendar days of the
26 effective date of this Decision and Order for inclusion in her file showing course completion.

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1 **D. PROFESSIONALISM PROGRAM (ETHICS COURSE)**

2 Within 60 calendar days of the effective date of this Decision and Order, Respondent shall
3 enroll in a professionalism program, that meets the requirements of Title 16, California Code of
4 Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that
5 program. Respondent shall provide any information and documents that the program may deem
6 pertinent. Respondent shall successfully complete the classroom component of the program not
7 later than six (6) months after Respondent's initial enrollment, and the longitudinal component of
8 the program not later than the time specified by the program, but no later than one (1) year after
9 attending the classroom component. The professionalism program shall be at Respondent's
10 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
11 renewal of licensure and in addition to the education course requirements set forth in Paragraph B
12 of this disciplinary order.

13 The Board shall approve of a program that complies with the Board's list of pre-approved
14 programs set forth at [https://www.mbc.ca.gov/Download/Documents/courses-ethics-](https://www.mbc.ca.gov/Download/Documents/courses-ethics-professionalism.pdf)
15 [professionalism.pdf](https://www.mbc.ca.gov/Download/Documents/courses-ethics-professionalism.pdf) and the Board shall allow for Respondent to attend a "virtual live" program in
16 satisfaction of this term and condition.

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee not later than 15 calendar days after successfully completing the program or not later
19 than 15 calendar days after the effective date of the Decision, whichever is later.

20 **E. FAILURE TO COMPLY**

21 By entering this agreement, Respondent agrees and understands, that her failure to comply
22 with any terms and conditions of this Decision and Order shall constitute general unprofessional
23 conduct and may serve as grounds for further disciplinary action against her license.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, M. Bradley Wishek. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 3/25/20

Shikha Garg, MD
9 SHIKHA GARG, M.D.
Respondent

10 I have read and fully discussed with Respondent Shikha Garg, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 3/25/20

M. Bradley Wishek
14 M. BRADLEY WISHEK
Attorney for Respondent

15
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19
20 DATED: 3-26-20

Respectfully submitted,

21 XAVIER BECERRA
Attorney General of California
22 STEVE DIEHL
Supervising Deputy Attorney General

23
24 John S. Gatschet
25 JOHN S. GATSCHET
Deputy Attorney General
26 Attorneys for Complainant

27 SA2019103381
28 Public Reprimand

Exhibit A

Accusation No. 800-2018-040948

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
JOHN S. GATSCHET
Deputy Attorney General
State Bar No. 244388
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-7546
Facsimile: (916) 327-2247

Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 800-2018-040948

Shikha Garg, M.D.
2170 E. Bidwell St. Ste. 100
Folsom, CA 95630

A C C U S A T I O N

Physician's and Surgeon's Certificate No. A 82372,

Respondent.

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 March 21, 2003, the Medical Board issued Physician's and Surgeon's Certificate Number A 82372 to Shikha Garg, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2020, 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 of the Code provides in pertinent part, that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. 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:

"...

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

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

"..."

6. Section 2266 of the Code states, in pertinent part:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

7. Section 11165.7 of the California Penal Code states, in pertinent part:

"(a) As used in this article, 'mandated reporter' is defined as any of the following:

"..."

1 “(21) A physician and surgeon...

2 “...”

3 8. Section 11165.9 of the California Penal Code states, in pertinent part:

4 “Reports of suspected child abuse or neglect shall be made by mandated reporters, or
5 in the case of reports pursuant to Section 11166.05, may be made, to any police department
6 or sheriff’s department, not including a school district police or security department, county
7 probation department, if designated by the county to receive mandated reports, or the
 county welfare department. Any of those agencies shall accept a report of suspected child
 abuse or neglect...”

8 9. Section 11166 of the California Penal Code states, in pertinent part:

9 “(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated
10 reporter shall make a report to an agency specified in Section 11165.9 whenever the
11 mandated reporter, in the mandated reporter’s professional capacity or within the scope of
12 the mandated reporter’s employment, has knowledge of or observes a child whom the
13 mandated reporter knows or reasonably suspects has been the victim of child abuse or
14 neglect. The mandated reporter shall make an initial report by telephone to the agency
15 immediately or as soon as is practicably possible, and shall prepare and send, fax, or
 electronically transmit a written followup report within 36 hours of receiving the
 information concerning the incident. The mandated reporter may include with the report
 any nonprivileged documentary evidence the mandated reporter possesses relating to the
 incident.

16 “(1) For purposes of this article, “reasonable suspicion” means that it is objectively
17 reasonable for a person to entertain a suspicion, based upon facts that could cause a
18 reasonable person in a like position, drawing, when appropriate, on the person’s training
19 and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require
20 certainty that child abuse or neglect has occurred nor does it require a specific medical
 indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For purposes
 of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a
 reasonable suspicion of sexual abuse.

21 “...

22 “(3) A report made by a mandated reporter pursuant to this section shall be known as
23 a mandated report.

24 “...

25 “(c) A mandated reporter who fails to report an incident of known or reasonably
26 suspected child abuse or neglect as required by this section is guilty of a misdemeanor
27 punishable by up to six months confinement in a county jail or by a fine of one thousand
28 dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally
 conceals the mandated reporter’s failure to report an incident known by the mandated

reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

“...”

FACTUAL ALLEGATIONS

10. On or about September 22, 2017, Patient A¹, a two-year old child, presented at Respondent's pediatric clinic with her mother. Respondent documented the following under “History of Present Illness,” for Patient A,

“Mom brings the child c (*sic*) the concern that child was babysitted (*sic*) by her GM (maternal GM) last Sunday from 8 am until 7 pm and came home saying that grandma touched her and pinched her on her private area. She has been stating that daily and said that to her dad yesterday as well. No discharge or other health problems. Mom feels that she seems (*sic*) some dark area in that part.”

Respondent saw Patient A and noted that she was “well nourished and well developed in no acute distress.” Respondent documented that her affect was “normal and appropriate.” Respondent also documented that Patient A had pink and moist mucosa and that her gait was in normal limits. Respondent documented that her chest was clear to auscultation and that her heart had regular rate and rhythm without evidence of murmur. Respondent noted that she was unable to perform a genitourinary examination thoroughly due to lack of cooperation by the child.

11. Respondent diagnosed Patient A with a “behavioral problem” and entered Code (F51.9) in the chart. Respondent did not document a rationale that supported her diagnosis of behavioral problem. Respondent then documented that she gave the “number for CPS (child protection services) to mom to call and to not send the child back to Grandma's house in future if the child's safety compromise (*sic*) is suspected.” Respondent did not make a mandated report to CPS. Respondent coded the visit with Patient A as a Medium Complexity visit pursuant to Medical Billing Code 99214.

12. On October 3, 2017, Patient A returned to Respondent's pediatric clinic with her mother. Nurse Practitioner B, an employee of Respondent's practice, examined Patient A. Nurse

¹ All confidential witness and patient names will be fully identified in discovery.

1 Practitioner B documented a detailed history and performed a thorough genitourinary
2 examination. Nurse Practitioner B documented that Patient A was very fearful of touch during
3 the examination and that during the vaginal examination she was holding her breath and
4 grimacing. Nurse Practitioner B also documented that Patient A was tearful. Nurse Practitioner
5 B documented that Patient A's external vaginal examination was normal but that Patient A's
6 "(i)nside folds with swelling and erythema." Nurse Practitioner B documented a "(s)eptate
7 hymen and swelling (about dime sized) noted distal to the urethra, directly above the vaginal
8 opening." Nurse Practitioner B documented that she contacted CPS and made a mandated report.
9 Practitioner B also documented that she spent 45 minutes with the family gathering information
10 and details. Respondent countersigned Nurse Practitioner B's note on October 4, 2017.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Gross Negligence)**

13 13. Respondent's license is subject to disciplinary action under section 2234 of the Code,
14 subdivision (b) of the Code, in that she committed gross negligence during the care and treatment
15 of Patient A. The circumstances are as follows:

16 14. Complainant realleges paragraphs 10 through 12, and those paragraphs are
17 incorporated by reference as if fully set forth herein.

18 15. Respondent's license is subject to discipline due to her grossly negligent care and
19 treatment of Patient A because she failed to make a mandated report of child abuse and/or neglect
20 to Child Protective Services and/or an agency which can accept mandated reports of child abuse
21 and/or neglect.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Repeated Negligent Acts)**

24 16. Respondent's license is subject to disciplinary action under section 2234 of the Code,
25 subdivision (c) of the Code, in that she committed repeated negligent acts during the care and
26 treatment of Patient A. The circumstances are as follows:

27 17. Complainant realleges paragraphs 10 through 12, and those paragraphs are
28 incorporated by reference as if fully set forth herein.

1 18. Respondent's license is subject to discipline because she committed the following
2 negligent acts during the care and treatment of Patient A:

3 a.) Respondent failed to make a mandated report of child abuse and/or neglect to
4 Child Protective Services and/or an agency, which can accept mandated reports of child abuse
5 and/or neglect;

6 b.) Respondent failed to perform a genitourinary examination of Patient A despite
7 receiving a report of child abuse and/or neglect from Patient A's mother and failed to schedule
8 Patient A for a follow-up appointment for a complete genitourinary examination with either her
9 as the provider or with another provider;

10 c.) Respondent diagnosed Patient A with having a behavioral problem which was
11 inconsistent with the physical findings documented in the medical records; and,

12 d.) Respondent documented Patient A's visit as a medium complexity visit under
13 Medical Billing Code 99214 without documenting at least two of the following components
14 needed to qualify for that billing designation which include, a detailed history, a detailed
15 examination, and/or complex medical decision making.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(General Unprofessional Conduct)**

18 19. Respondent's license is subject to disciplinary action under section 2234 of the Code
19 and in that she committed general unprofessional conduct by failing to follow the dictates of
20 Penal Code sections 11165.7, 11165.9, and 11166. The circumstances are as follows:

21 20. Complainant realleges paragraphs 10 through 12, and those paragraphs are
22 incorporated by reference as if fully set forth herein.

23 21. Respondent's license is subject to discipline for general unprofessional conduct
24 because she ignored facts that gave rise to a reasonable suspicion that Patient A had suffered from
25 physical abuse and/or neglect and Respondent failed to make a mandated report as required by
26 law.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Inadequate and Inaccurate Medical Records)**

3 22. Respondent's license is subject to disciplinary action under section 2266 of the Code
4 in that she kept inaccurate and inadequate medical records when she documented Patient A's
5 care. The circumstances are as follows:

6 23. Complainant realleges paragraphs 10 through 12, and those paragraphs are
7 incorporated by reference as if fully set forth herein.

8 24. Respondent's license is subject to disciplinary action because she failed to document
9 a sufficient basis for diagnosing Patient A with behavioral problems and failed to document a
10 sufficient basis for coding the visit with Patient A as a medium complexity visit pursuant to Code
11 99214.

12 **PRAYER**

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

15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 82372,
16 issued to Shikha Garg, M.D.;

17 2. Revoking, suspending or denying approval of Shikha Garg, M.D.'s authority to
18 supervise physician assistants and advanced practice nurses;

19 3. Ordering Shikha Garg, M.D., if placed on probation, to pay the Board the costs of
20 probation monitoring; and

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

22
23 DATED: August 30, 2019

24 
KIMBERLY BIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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