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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO, September 13, 2017  
BY: K. Vong ANALYST

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

12  
13 In the Matter of the Accusation Against:

Case No. 800-2016-027360

14 **Leon Fajerman, M.D.**  
1876 Altozano Drive  
15 El Cajon, CA 92020-1001

**A C C U S A T I O N**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 33156,**

Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
22 capacity as the Executive Director of the Medical Board of California.

23 2. On or about November 17, 1978, the Medical Board issued Physician's and  
24 Surgeon's Certificate No. A 33156 to Respondent Leon Fajerman, M.D. (Respondent). The  
25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on February 28, 2018, unless renewed.

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1 **JURISDICTION**

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

4 4. Section 2227 of the Code states:

5 “(a) A licensee whose matter has been heard by an administrative law judge of the  
6 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or  
7 whose default has been entered, and who is found guilty, or who has entered into a  
8 stipulation for disciplinary action with the board, may, in accordance with the provisions of  
9 this chapter:

10 “(1) Have his or her license revoked upon order of the board.

11 “(2) Have his or her right to practice suspended for a period not to exceed one year  
12 upon order of the board.

13 “(3) Be placed on probation and be required to pay the costs of probation monitoring  
14 upon order of the board.

15 “(4) Be publicly reprimanded by the board. The public reprimand may include a  
16 requirement that the licensee complete relevant educational courses approved by the board.

17 “(5) Have any other action taken in relation to discipline as part of an order of  
18 probation, as the board or an administrative law judge may deem proper.

19 “....”

20 5. Section 726 of the Code states:

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

25 “(b) This section shall not apply to consensual sexual contact between a licensee and  
26 his or her spouse or person in an equivalent domestic relationship when that licensee  
27 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or  
28 person in an equivalent domestic relationship.”

1           6.     Section 2234 of the Code, states:

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

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

7                     “... ”

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

9                     “... ”

10           7.     Unprofessional conduct has been defined as conduct which breaches the rules or  
11           ethical code of the medical profession, or conduct which is unbecoming a member in good  
12           standing of the medical profession, and which demonstrates an unfitness to practice medicine.  
13           (See *Shea v. Bd. of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

14   **FIRST CAUSE FOR DISCIPLINE**

15   **(Sexual Abuse, Misconduct, or Relations with a Patient)**

16           8.     Respondent has subjected his Physician’s and Surgeon’s Certificate No. A 33156 to  
17           disciplinary action under sections 726, 2227 and 2234 of the Code in that he committed one or  
18           more acts of sexual abuse, misconduct or relations with a patient, as more particularly alleged  
19           hereinafter:

20           9.     At all times relevant to the allegations described herein, Respondent was a  
21           psychiatrist practicing in offices in or around San Diego County, California including, but not  
22           limited, to offices in San Diego, El Cajon, Chula Vista or San Ysidro (or any combination  
23           thereof).

24                     Patient S.D.

25           10.    In or around May 2007, patient S.D. (“Patient D.”), an adult woman, visited  
26           Respondent for the first time for psychiatric treatment. Since that date, Patient D. has had  
27           approximately 40 treatment visits with Respondent. At all times, Patient D.’s communications  
28           with Respondent have been in Spanish.

1           11. On or about October 19, 2016, Patient D. visited Respondent for a scheduled  
2 psychiatric appointment. As this visit was concluding, Respondent told Patient D. that their next  
3 appointment would be in January of the following year (2017). Respondent held up an  
4 appointment card in his hand and then placed the card and his hand inside the top of her dress,  
5 touching one of her breasts with his hand.

6           12. Patient D. reached under her dress and took the appointment card, but Respondent  
7 kept his hand on her breast. He then began rubbing her breast, telling her that it felt good.  
8 Patient D. replied that it did not feel good and pulled away from Respondent.

9           13. Respondent then hugged Patient D. Patient D. again attempted to pull away.  
10 However, Respondent kissed Patient D. on her lips and inserted his tongue into her mouth.  
11 Patient D. closed her mouth and Respondent removed his tongue from her mouth. Respondent  
12 then began to kiss Patient D. on her neck. Patient D. pulled her head down toward her shoulders  
13 in an effort to prevent him from kissing her.

14           14. Respondent then pulled up the bottom of Patient D.'s dress and placed one of his  
15 hands on one of her buttocks. He told her that he would like to undress her.

16           15. Respondent then placed his hand under Patient D.'s underwear and touched her  
17 vagina.

18           16. Patient D. pulled away from Respondent and told him that what was happening was  
19 not right, and that she needed to leave. Respondent asked Patient D. to come back later that same  
20 day, and within the next few days. At one point, he suggested that Patient D. tell her spouse that  
21 she was going to a casino but instead come to meet Respondent. Patient D. refused.

22           17. Respondent also asked Patient D. to return on an upcoming Friday when nobody  
23 would be in the office so that they could have sexual intercourse. Patient D. told Respondent that  
24 it was not going to happen and left.

25           18. On or about December 21, 2016, at the direction of law enforcement officers,  
26 Patient D. attempted to conduct a controlled call with Respondent. However, she was not able to  
27 reach him by telephone. At the direction of law enforcement officers, Patient D. agreed to have

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1 an audio recording application installed on her personal cellular telephone to capture audio from  
2 telephone calls made to a designated telephone number.

3 19. On or about December 22, 2016, Patient D. spoke with Respondent by telephone.  
4 Among other things, they discussed what occurred during the October 19, 2016 appointment.  
5 Patient D. told Respondent that it had been worrisome for her when he placed the appointment  
6 card on her breast and kissed her. In response, Respondent asked Patient D. if she had not liked  
7 it, to which she replied that she had not.

8 20. At another point during the December 22, 2016 conversation, Patient D. asked  
9 Respondent if he remembered touching her breasts and butt, kissing her on the mouth and neck,  
10 and touching her private parts. Respondent replied that something like that had happened.

11 21. At another point in the December 22, 2016 conversation, Respondent told Patient D.  
12 that he would not touch her at their future scheduled appointment and promised that it would not  
13 happen again.

14 22. On or about January 6, 2017, Patient D. spoke with Respondent by telephone.  
15 Among other things, they again discussed what had occurred during the October 19, 2016  
16 appointment. At one point in the conversation, Patient D. asked Respondent what he thought  
17 about what had occurred. Respondent replied that it was better to discuss it face-to-face as  
18 opposed to over the phone, but said that it was something in the moment, that he had hugged her  
19 and kissed her, but that it was not like someone had attacked her or made her.

20 23. Patient D. told Respondent that that was not all that had happened. She told  
21 Respondent that he had kissed her neck, touched her breasts, buttocks and private parts, and told  
22 her that he wanted to get her naked and have sex with her. Patient D. asked him what he thought  
23 with respect to this or what his desire was. Respondent replied that if he did that, that showed  
24 interest.

25 24. At another point in the conversation, Patient D. asked Respondent if what had  
26 happened was a thing in the moment or if he wanted something more with her. Respondent said  
27 that he did not know. He said that he had not made plans for it and that it was something in the

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1 moment. He added that time will tell, and that if someone doesn't want it, it would be over. He  
2 stated that the topic is not that dramatic.

3 25. At another point in the conversation, Patient D. asked Respondent what he felt when  
4 he was hugging her and kissing her, and if he was excited or aroused. Respondent replied by  
5 talking about attraction. He indicated that it was human nature and feelings that one knows well  
6 and suddenly happen. Patient D. asked Respondent if, at the time, his penis was ready in order to  
7 have sex with her. Respondent replied no, but that if it would have continued a little more,  
8 probably, yes.

9 26. Patient D. also asked Respondent if he had been aroused sexually or felt anything  
10 when he touched her private parts, or if it was a turn-on. Respondent replied yes, and that it was  
11 interesting and attractive. But, he added, that it was three seconds and he is not that quick.

12 27. Later in the conversation, Patient D. told Respondent that she would like to meet with  
13 him the following day (January 7, 2017), which he had proposed earlier in the conversation.  
14 Patient D. told Respondent that she wanted to know what part of her body he had liked the most,  
15 to know if and where Patient D. should perfume herself. Respondent told her to wear perfume all  
16 over, from top to bottom. Patient D. then asked Respondent if that meant that he liked all of her,  
17 to which he replied, "Yes. Of course, baby."

18 28. Later in the conversation, Patient D. again asked Respondent what part of her body he  
19 had liked the most. On this occasion, Respondent initially responded that he would tell her the  
20 following day (January 7, 2017). Patient D. asked him to tell her while they were speaking (on  
21 January 6, 2017) and, at one point, Respondent stated that he would need to see her body again.  
22 Patient D. asked if this meant he was going to get her naked, to which Respondent replied that if  
23 Patient D. wanted to, he would.

24 29. Later in the conversation, Respondent stated that he liked Patient D.'s person, in  
25 general, and how Patient D. is. He added that he also liked the parts of her body that are  
26 attractive. He stated that he is not blind, deaf and mute, and that he has feelings. Respondent  
27 eventually stated that the part of Patient D.'s body he enjoyed touching the most was her breasts.

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1           30.    Toward the end of their conversation on January 6, 2017, Patient D. told Respondent  
2 that she was unsure whether she would go to see him the following day (January 7, 2017).  
3 Patient D. also asked about a separate appointment that had been previously scheduled for  
4 January 11, 2017. In particular, Patient D. asked Respondent whether Patient D. could see him at  
5 his office in El Cajon instead of his Chula Vista office. Respondent replied, no, because they  
6 would have the same story with the people, so they would end up doing nothing. Patient D.  
7 understood Respondent to mean that he did not want her to meet him in his El Cajon office  
8 because other people would be present in the vicinity, which would mean that they would not be  
9 able to engage in any kind of sexual conduct. Patient D. replied, "Ohh. Then we are going to do  
10 something," to which Respondent replied that they would decide then, like healthy people.

11           Patient L.S.

12           31.    On or about December 16, 2016, Patient L.S. ("Patient S.") presented to Respondent  
13 for the first time for a psychiatric appointment at a San Ysidro Health Center (SYHC) facility in  
14 Chula Vista, California. Patient S. presented to Respondent for a second psychiatric appointment  
15 with him at a SYHC facility in Chula Vista on or about January 31, 2017.

16           32.    On or about March 31, 2017, Patient S. presented to Respondent for a psychiatric  
17 appointment at a SYHC facility in Chula Vista. When Patient S. entered the appointment room,  
18 Respondent commented on how "inviting" she looked. Patient S. asked Respondent what he  
19 meant by his comment. Respondent replied that she was inviting to men. Patient S. asked for  
20 further clarification, at which point Respondent changed the subject.

21           33.    At or near the end of the appointment on or about March 31, 2017, Patient S. began to  
22 cry. Respondent approached Patient S. and embraced her. While embracing her, Respondent  
23 pushed her chest against his causing Patient S. to feel uncomfortable. Patient S. told Respondent  
24 that she was "okay now." Respondent let her go and Patient S. left the appointment.

25           34.    On or about May 12, 2017, Patient S. presented to Respondent for a psychiatric  
26 appointment at a SYHC facility in Chula Vista. At or near the end of this appointment, Patient S.  
27 stood up to leave. Respondent stood up and met Patient S. face-to-face before she could exit the

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1 appointment room. Respondent pushed Patient S. against a wall of the room and forcibly kissed  
2 her on her mouth, and groped one of her breasts with his hand.

3 35. Patient S. asked Respondent why he was doing this, to which Respondent replied,  
4 “when you like something, you go for it.” Patient S. was in shock and did not know what to do.  
5 She told Respondent that somebody would see them through a window into the room.

6 36. Respondent replied that he had another office nearby and asked her to meet him there  
7 later the same day, where they could talk and “continue this.” Patient S. left the appointment but  
8 did not meet Respondent later in the day.

9 37. On or about June 9, 2017, Patient S. presented to Respondent for a psychiatric  
10 appointment at a SYHC facility in Chula Vista. During this appointment, it appeared that  
11 Respondent was groping, or otherwise touching, himself in or around his groin area.

12 38. At or near the end of the June 9, 2017 appointment, Respondent stood up from his  
13 seat. Patient S. believed this indicated that her appointment was over, so she stood up as well.  
14 Respondent approached Patient S., embraced her and began to forcefully kiss her on her mouth.  
15 Respondent pushed Patient S. back into one of the room’s corners and continued to forcibly kiss  
16 her. Respondent pressed his body against Patient S.’s body and groped one of her breasts.  
17 Respondent reached under Patient S.’s blouse with one of his hands, but Patient S. pushed his  
18 hand down before it could reach beyond her stomach area.

19 39. Respondent asked Patient S. if she could meet him later, at his “private office.”  
20 Patient S. replied, “yes,” so that Respondent would stop. Respondent let her go, and explained to  
21 her where his private office was located. Patient S. left the appointment, but did not meet  
22 Respondent at his private office later that day.

23 40. On or about June 10, 2017, Patient S. arrived to her residence after dropping off her  
24 child at school. Patient S. observed a car pull up near her residence. The driver rolled down the  
25 window and Patient S. recognized the driver as Respondent. Patient S. was shocked and fearful,  
26 and asked Respondent what he was doing there. Respondent stated that he thought they were  
27 going to his private office. Patient S. stated that there was no way she could go. Respondent  
28 sped off, angrily.



1           41. Over the following weeks, Respondent called Patient S. multiple times. Among other  
2 things, Respondent asked about or attempted to coordinate a private meeting with Patient S.  
3 during these calls.

4           42. Throughout the months leading up to and including July 2017, Patient S. had been  
5 experiencing significant emotional distress due to a close family member's medical issues, which  
6 ultimately resulted in the family member's death in or around June 2017. During one of  
7 Respondent's telephone calls, Patient S. agreed to meet Respondent at his private office, in the  
8 hope that he could prescribe her a medication to help her cope with her emotional distress.

9           43. On the day of the meeting, in or around July 2017, Patient S. began to feel uneasy  
10 about the situation and contacted Respondent to tell him that she was having an issue with her  
11 car. Respondent offered to pick up Patient S. at her residence, which he proceeded to do.

12           44. Respondent drove Patient S. to a brown office building in Chula Vista. There,  
13 Respondent took Patient S. to a private office on the second floor of the building.

14           45. Once Respondent and Patient S. had entered the private office, Respondent grabbed  
15 her arm and pushed her onto a couch in the office. Respondent got on top of Patient S. and kissed  
16 her, as well as groped her breasts and genitalia over her clothes. Patient S. felt Respondent's  
17 erection pressed up against her body.

18           46. Patient S. was petrified. She managed to get up from beneath Respondent, and off the  
19 couch. She told Respondent that she was hypoglycemic and that she would faint if she did not eat  
20 soon.

21           47. Respondent stated that they could leave only if Patient S. "showed him something."  
22 Patient S. turned away from him and briefly pulled down her pants and showed him her buttocks.  
23 Respondent lunged at her, but Patient S. got to the door at the entrance of the private office and  
24 opened it. Respondent told Patient S., in Spanish, that he was going to give her a kiss. Patient S.  
25 told Respondent that he had to take her to eat because she felt very ill.

26           48. Respondent drove Patient S. to a nearby restaurant. After a meal, Respondent began  
27 to drive Patient S. back to the private office. Patient S. was very frightened and told

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1 Respondent that she could not go back because she had to pick up her child. Respondent became  
2 very upset and drove Patient S. back to her residence.

3 Patient R.Q.

4 49. On or about December 27, 2016, patient R.Q. ("Patient Q.") presented to Respondent  
5 at a SYHC facility in San Ysidro, California for a psychiatric appointment.

6 50. At or near the conclusion of the appointment, Respondent grabbed Patient Q.'s  
7 shoulders with both of his hands and pulled her towards him. Respondent pulled down the  
8 neckline of Patient Q.'s dress and exposed one of her breasts. Respondent licked the exposed  
9 breast and nipple. Patient Q. was very upset and attempted to press Respondent's head into her  
10 breast in a suffocating manner to get him to stop.

11 51. Thereafter, Respondent stuck his tongue out and told Patient Q. to kiss him, in  
12 Spanish. Patient Q. told Respondent that she did not want to and told him to stay away from her.  
13 Patient Q. broke away from Respondent and left the appointment.

14 52. Later the same day, on or about December 27, 2016, Patient Q. received a telephone  
15 call from Respondent. During the call, Respondent asked Patient Q. if he could come over and  
16 visit her. Patient Q. refused.

17 53. After the December 27, 2016 incident, Patient Q., needing medication to treat her  
18 ailments, presented to Respondent additional times for psychiatric treatment at a SYHC facility in  
19 San Ysidro. During one of these appointments, Respondent apologized to Patient Q., told her that  
20 his conduct had been a mistake, and stated that if the clinic found out about his conduct he would  
21 be out of a job.

22 54. At or near the end of one of these subsequent appointments, Patient Q. requested from  
23 Respondent a prescription for pain medication to treat pain she was suffering in or around her tail  
24 bone. Respondent replied that he did not have his prescription book with him and that it was at  
25 his private office. Respondent told Patient Q. that his private office was close by and that she  
26 could follow him there. Patient Q. agreed.

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1 55. Respondent and Patient Q. left the SYHC facility in San Ysidro, and Patient Q.  
2 followed Respondent, by car, to a brown office building. There, Respondent took Patient Q. to a  
3 private office on the second floor of the building.

4 56. While in his private office, Respondent undressed Patient Q., touched Patient Q.'s  
5 breasts, buttocks, and vagina, and had unprotected sexual intercourse with Patient Q. At one  
6 point during this encounter, Patient Q. asked Respondent to stop, to which he replied that he was  
7 going to give her the medication she had requested.

8 57. After Respondent finished having sexual intercourse with Patient Q., she got dressed  
9 right away. Patient Q. told Respondent that she felt bad. Respondent told her that he thought it  
10 was what she wanted since she followed him to his office. Respondent provided Patient Q. with a  
11 prescription for the medication she had requested.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(General Unprofessional Conduct)**

14 58. Respondent has further subjected his Physician's and Surgeon's Certificate  
15 No. A 33156 to disciplinary action under sections 2227 and 2234 of the Code in that he has  
16 engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct  
17 that is unbecoming to a member in good standing of the medical profession, and which  
18 demonstrates and unfitness to practice medicine, as more particularly alleged in  
19 paragraphs 8 to 57, above, which are hereby incorporated by reference and realleged as if fully set  
20 forth herein.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Violating or Attempting to Violate, Directly or Indirectly, Any Provision of the Medical  
23 Practice Act)**

24 59. Respondent has further subjected his Physician's and Surgeon's Certificate  
25 No. A 33156 to disciplinary action under section 2234, subdivision (a), of the Code in that he  
26 violated or attempted to violate, directly or indirectly, any provision of the Medical Practice Act,  
27 as more particularly alleged in paragraphs 8 to 58, above, which are hereby incorporated by  
28 reference and realleged as if fully set forth herein.

1 **PRAYER**

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

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 33156, issued  
5 to Respondent Leon Fajerman, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Leon Fajerman, M.D.'s  
7 authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Respondent Leon Fajerman, M.D., if placed on probation, to pay the Board  
9 the costs of probation monitoring; and

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

11  
12 DATED: September 13, 2017

  
13 KIMBERLY KIRCHMEYER  
14 Executive Director  
15 Medical Board of California  
16 State of California  
17 Complainant