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9 Dr. SIMONE MELISSA GOLD

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 SIMONE MELISSA GOLD, M.D. J.D.  
16 8805 Tamiami Tri N #139  
17 Naples, FL 34108-2525

18 Physician's and Surgeon's Certificate  
19 No. G 70224

20 Respondent.

CASE NO.: 800-2021-074424

OAH NO.: 2023030252

**RESPONDENT'S PRE-HEARING  
BRIEF**

**DATE: November 13, 2023**

**TIME: 9 a.m.**

**PLACE: OAH – ZOOM VIDEO**

21 **I. INTRODUCTION**

22 Dr. Simone Gold has been an anomaly since a very young age. She graduated from  
23 medical school at the age of 23, and from Stanford University Law School thereafter. Boasting  
24 credentials matching those of genius fictional television characters such as “Doogie Howser,  
25 M.D.” she could have been hired by any prestigious hospital, or select the law firm where *she*  
26 wanted to begin her legal career. Instead, Dr. Gold chose the path less traveled and decided to  
27 follow in her father's footsteps, (a Holocaust survivor and physician), by using her gifts to serve  
28 her fellow citizens as a practicing doctor. Dr. Gold's desire to heal people led her to work in some  
of the most underserved communities and underprivileged hospitals in our state. She has worked

1 as an ER physician in Inglewood (home to the rival gangs the Crips & the Bloods where the  
2 scourge of urban gang-violence was honestly depicted in the movie “Boyz n the Hood”) and in  
3 underserved Bakersfield, California. She routinely accepted scheduling of long shifts and treating  
4 the most difficult cases. Notwithstanding working under such demanding professional  
5 circumstances for over twenty years, she has never had a *single patient complaint*. Her talent and  
6 hard work were (naturally) recognized within the medical community and this led to her being  
7 recruited to serve on several prestigious hospital committees, including appointment as Chairman  
8 of the Risk Management Committee at St. John’s Medical Center between 2003 and 2005. Earlier  
9 in her career she enjoyed the honor of acting as a Congressional Fellow for Senator Jeffords of the  
10 Senate Labor and Human Resources Committee and worked as an Instructor of Bioethics at  
11 Stanford Medical School for several years.

13 In the emergency room, Dr. Gold had a reputation not only her providing efficient and  
14 incredible care for each patient, but also for taking on more responsibilities than were required of  
15 her whenever she saw that there was a need to be filled. In addition, Dr. Gold has been, and  
16 continues to be, deeply committed to serving her community in non-clinical roles. For example, in  
17 2016, she began volunteering her time with the citizen oversight committee of the Beverly Hills  
18 Unified School District, and she is also a well- known Community Leader for the Jewish  
19 Republican Alliance. Dr. Gold’s professional and public life is the epitome of what a California  
20 physician should aspire to be.

22 In 2020, during Covid-19, Dr. Gold left her position as an ER physician to create the non-  
23 profit entity America’s Frontline Doctors. In that role her job largely consisted of traveling  
24 around the country giving speeches involving treating Covid-19. As in nearly all cases of speech-  
25 giving on sensitive topics, there were those who disagreed with the point of view she presented  
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1 ,just as there were those who supported her. It was in this capacity of giving a speech (for which  
2 she had previously obtained a permit) that led to her being inside the  
3 U.S. Capitol Building on January 6, 2021.

4 Americans still believe our country is a place where individual rights are to be the  
5 cornerstone of an open and free society. A key to that reality is a legal system that is apolitical,  
6 color blind and focused, not exclusively, but principally, on the rights of the people rather than on  
7 the power of government, and government agencies.

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9 The instant proceeding reflects the tension between this concept as envisioned by our  
10 nation's founders and as set forth in the United States' Constitution, and the opposing view  
11 advocating for the government's far-reaching ability to regulate how American medical  
12 professionals make a living today.

13 Over decades, it was largely agreed that certain government agencies were necessary to  
14 protect public and individual interests that may not rise to the level wherein application of criminal  
15 statutes' related punishments were appropriate. Thus, agencies like the California Medical Board  
16 (hereafter, the "CMB") were created to license certain individuals who wished to act as physicians  
17 and surgeons.

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19 Although financial and personnel power was extended to the CMB for implementation and  
20 promulgation of rules it would enforce, this grant of authority was circumscribed. In general, the  
21 expectation for the CMB, acting within the authority granted under the Medical Practice Act  
22 ("MPA"), was to protect the interest of the public from physicians and surgeons who were not  
23 capable of properly performing their designated functions. In this regard, there was a benefit to our  
24 society from the uniform and even-handed administration of such protections. However, over  
25 time, it became apparent that by essentially providing the CMB with the powers of the  
26 government, it would be prudent to limit those powers in order to prevent it from devolving into  
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1 an entity that used its agency powers as a political weapon or an enforcement arm for objectives  
2 beyond its mandate.

3 To this end, the CMB provided a definition of *who* was to be overseen:

4 “A Physician or Surgeon (M.D.) is an individual issued a license allowing them to practice  
5 medicine. A physician may diagnose, prescribe, and administer treatment to individuals suffering  
6 from injury or disease.” (See [https://www.mbc.ca.gov/Licensing/Physicians-and-](https://www.mbc.ca.gov/Licensing/Physicians-and-Surgeons/Apply/Physicians-and-Surgeons-License/)  
7 [Surgeons/Apply/Physicians-and Surgeons-License/](https://www.mbc.ca.gov/Licensing/Physicians-and-Surgeons/Apply/Physicians-and-Surgeons-License/) )  
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9 In addition, the Government enacted the Medical Practice Act which included several  
10 statutes delineating the contemplated scope of the CMB’s portfolio. For example, see Business  
11 and Professions Codes §§ 2227, 2234, 2236, and California Code of Regulations § 1360 of title  
12 16. These statutes became the law to define, control and effectively limit the power of the CMB.  
13 Virtually all of the relevant statutes direct that the rules to be enforced *must be substantially*  
14 *related to the qualifications, functions, or duties of a physician and surgeon.* (Emphasis added).  
15

16 In the instant matter, the CMB has cast off its legislative moorings and now seeks to  
17 arrogate unto itself the power to *redefine* its administrative discretion to attack licensees over any  
18 conduct resulting in a criminal conviction (even a misdemeanor trespass) which the CMB  
19 arbitrarily characterizes as “substantially related to the qualifications, functions, or duties of a  
20 physician and surgeon” irrespective of the CMB definition of a physician and surgeon. Thus, the  
21 CMB is now essentially taking the position that any doctor who publicly criticizes the Board and  
22 says they are wrong on the medical science will face charges against their license for ANY  
23 criminal charge, no matter how unrelated to the qualifications, functions or duties of a physician  
24 and surgeon.  
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26 This raises the question, when a physician and surgeon jaywalks, or is issued an infraction  
27 for text messaging while driving, for example, are these infractions “substantially related to the  
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1 qualifications, functions, or duties of a physician and surgeon”? And if the CMB does attempt to  
2 impair the jaywalker physician’s license, who is empowered to monitor the CMB to ensure it is  
3 treating all physician jaywalkers the same?

4 Arguably, these CMB actions, (if allowed to stand) are far more dangerous to the  
5 separation of powers inherent in a well-ordered republic (and ultimately threatening to public  
6 safety) than any misdemeanor trespass. Or, if a physician and surgeon is caught stealing an orange  
7 at a grocery store and is found guilty of a misdemeanor for this act, should this provide the pretext  
8 useful for the CMB to put the physician’s license at risk in the case when there is a political point  
9 of view held by the licensee *actually* providing the motive for the CMB to bring an Accusation?  
10 Would it benefit the California public to deny a physician’s right to continue practicing medicine  
11 on this basis? What if a physician surreptitiously records a conversation with her superior at work,  
12 believing that her superior is attempting to terminate her position in violation of the law and is  
13 found guilty of a felony under California Penal Code § 632(a)? Are these crimes “substantially  
14 related” enough to the duties, qualifications and functions of a an otherwise competent and  
15 successful physician and surgeon to revoke that physician and surgeon’s license?  
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18 In this action, the California Medical Board seeks to establish the principle that any  
19 criminal conviction is a *per se* violation which is substantially related enough to the practice of  
20 medicine in order to revoke a physician and surgeon’s license so long as the CMB says it is. The  
21 former legislative limits have now been discarded only to be replaced by the CMB’s unfettered  
22 discretion to set its own administrative boundaries. Throughout its 147 years of existence the  
23 California Medical Board has never before made the naked and brazen bureaucratic power-grab as  
24 it does in this case. Respondent’s position is that the CMB’s overreach as described above resulted  
25 from its political decision to prohibit discussion of Ivermectin, Hydroxychloroquine and treatment  
26 methods relating to Covid-19; which were ultimately found to be an unlawful attempt to squelch  
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1 or chill the free speech of doctors and surgeons, after the State of California determined to repeal  
2 California B&P Code§ 2270, designed to inhibit the types of speech the Accusation against Dr.  
3 Gold sets forth in ¶11, thereto.<sup>1</sup>

4 **II. ISSUES TO BE DECIDED**

5 A. What is the evidentiary standard to be applied in determining whether the  
6 Complainant has carried its burden of proof?

7 B. What constitutes the practice of medicine?

8 C. What constitutes acts which are substantially related to the qualifications,  
9 functions, or duties of a physician and surgeon?

10 D. What constitutes unprofessional conduct for a licensee of the CMB and what  
11 constitutes acts which evidence present or potential unfitness of a licensed medical doctor to  
12 perform the functions authorized by the license granted in a manner consistent with public health,  
13 safety or welfare?

14 E. Can Dr. Gold receive a fair and impartial hearing from the CMB?

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17 **III. ARGUMENT**

18 **A. The Evidentiary Standard to be Applied in Determining Whether the**  
19 **Complainant Has Carried It's Burden of Proof is Clear and Convincing**  
20 **Evidence.**

21 Under California law, the Board must obtain “clear and convincing proof to a reasonable  
22 certainty,” to prove that disciplinary action is warranted... As a result, prosecuting instances of  
23 unprofessional conduct is more difficult, time consuming, and expensive in California, when  
24 compared to most other states.” (California Medical Board Newsletter, Vol. 160). “Since it is  
25 apparent that the underlying purpose of disciplining both attorneys and physicians is protection of  
26 the public, it would be anomalous to require a higher degree of proof in disciplinary hearings

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28 <sup>1</sup> See Senate Bill No. 815, Chapter 294, Section 19, Repealing California Business & Professions Code §2270

1 involving attorneys or real estate agents than in hearings involving physicians. Accordingly, we  
2 hold that the proper standard of proof in an administrative hearing to revoke or suspend a doctor's  
3 license should be clear and convincing proof to a reasonable certainty and not a mere  
4 preponderance of the evidence. (See *Ettinger v. Bd. of Med. Quality Assurance*, 135 Cal. App. 3d  
5 853, 856, 185 Cal. Rptr. 601, 603 (Ct. App. 1982)

6 Dr. Gold anticipates that the partially disputed evidence that the Complainant will attempt  
7 to offer into evidence will include actions taken by Respondent that arguably supported her plea  
8 agreement to 18 USC § 1752 (a)(1)-“Entering and Remaining in a Restricted Building or  
9 Grounds”.

10 Dr. Gold submits that there is *no evidence* that her actions on January 6, 2021, bore any  
11 relevance to her ability to practice medicine, nor do those actions substantially relate to her  
12 qualifications, functions, or duties as a physician. Instead, the CMB will likely offer the opinion  
13 of Jillian Anderson, the California Medical Board’s investigator (who was not present when the  
14 underlying misdemeanor trespass took place) and perhaps supply hearsay documents which it  
15 hopes may reflect poorly as to Dr. Gold’s’s political alignment, presence (however limited) at a  
16 political demonstration that ultimately devolved into illegal activity by some, and which resulted in  
17 injuries and physical damage to property caused by individuals other than (and unknown to) the  
18 Respondent.

19 Complainant will use the fact of the unstated, but clearly existent political implications of  
20 chaos that erupted on January 6, to try and extract a ruling from the Administrative Law Judge that  
21 is not supported by a reasonable reading and interpretation of the applicable laws and cases. In  
22 fact, given that the Complainant has provided *no expert witnesses*, it seems clear that what is being  
23 sought is simply a subjective judgment without any clear statutory basis.

24 Considering the factors involved in attorney discipline may be applicable to physicians:  
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1 “A State can require high standards of qualification, such as good moral character or proficiency  
2 in its law, before it admits an applicant to the bar, but any qualification must have a rational  
3 connection with the applicant's fitness or capacity to practice law. *Douglas v. Noble*, 261 U.S. 165,  
4 43 S.Ct. 303, 67 L.Ed. 590; *Cummings v. State of Missouri*, 4 Wall. 277, 319—320, 18 L.Ed. 356.  
5 Cf. *Nebbia v. People of State of New York*, 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940. Obviously,  
6 an applicant could not be excluded merely because he was a Republican or a Negro or a member  
7 of a particular church. Even in applying permissible standards, officers of a State cannot exclude  
8 an applicant when there is no basis for their finding that he fails to meet these standards, or when  
9 their action is invidiously discriminatory. (See *Cf. Yick Wo v. Hopkins*, 118 U.S. 356, 6 S.Ct.  
10 1064, 30 L.Ed. 220.; *Schware v. Bd. of Bar Exam. of State of N.M.*, 353 U.S. 232, 239, 77 S. Ct.  
11 752, 756, 1 L. Ed. 2d 796 (1957).) "Since it is apparent that the underlying purpose of disciplining  
12 both attorneys and physicians is protection of the public, it would be anomalous to require a higher  
13 degree of proof in disciplinary hearings involving attorneys or real estate agents than in hearings  
14 involving physicians. [1] Accordingly, we hold that the proper standard of proof in an  
15 administrative hearing to revoke or suspend a doctor's license should be *clear and convincing*  
16 *proof to a reasonable certainty* and not a mere preponderance of the evidence." (Emphasis  
17 added) *Ettinger v Board of Medical Quality* (1982) 135 Cal. App. 3d 853, 856

20 **B. What Constitutes the Practice of Medicine.**

21 There seems to be little dispute as to this issue. As pointed out above, the Complainant has  
22 defined the functions of a physician as follows:

23 “A Physician or Surgeon (M.D.) is an individual issued a license allowing them to practice  
24 medicine. A physician may diagnose, prescribe, and administer treatment to individuals suffering  
25 from injury or disease.”<sup>2</sup>

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27 <sup>2</sup> <https://www.mbc.ca.gov/Licensing/Physicians-and-Surgeons/Apply/Physicians-and-Surgeons-License/>  
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1           The Complainant carefully avoids providing a more detailed description defining the  
2 practice of medicine. This, of course, makes it less obvious as to when an any action taken by, or  
3 imputed to a licensee is “substantially related to the qualifications, functions or duties of a  
4 physician or surgeon.” Ostensibly in an effort clear up this ambiguity, in 2020, the legislature  
5 required the CMB to provide clarification as to how conviction of a criminal offense would affect  
6 a medical license. (See Business & Professions Code § 481, et seq.) Unfortunately, so far as  
7 Respondent can determine, the CMB has made *no changes* to applicable statutory provisions.  
8 This allows the CMB to continue to prosecute the revocation of a medical professional’s license to  
9 practice his or her profession based upon an entirely subjective analysis of the facts by a non-  
10 transparent process operated by political appointees of the CMB.

12           **C.     What Constitutes Acts That are Substantially Related to the Qualifications,  
13 Functions, or Duties of a Physician.**

14           Generally, for purposes of a revocation of a license, (the act) shall be considered to be  
15 substantially related to the qualifications, functions, or duties of a licensee if it evidences *present*  
16 *or potential unfitness of a licensee to perform the functions authorized by the license consistent*  
17 *with the public health, safety and welfare.* See CCR Title 16 Article 7; Business and Professions  
18 Code § 490. Government has criminalized the “Unauthorized practice of medicine”, reflected in  
19 Business and Profession Code §2052. The minute details of what the practice of medicine entails  
20 is outlined in the statute. (See also Cal B&P § 2038). None of the acts identified are remotely  
21 connected to the acts attributable to Respondent.

23           Many licensed professions can be analogized to assist in the instant matter:

24           "[T]he Board’s authority to take disciplinary action against a licensed nurse derives from the  
25 state’s inherent power to regulate the use of property to preserve public health, morals, comfort,  
26 order[,] and safety." *Sulla v. Bd. Of Registered Nursing* (2012) 205 Cal.App.4th 1195. The

1 substantial-relationship requirement stems from the due process principle that "a statute  
2 constitutionally can prohibit an individual from practicing a lawful profession *only for reasons*  
3 *related to his or her fitness or competence to practice that profession.*" *Hughes v. Board of*  
4 *Architectural Examiners* (1998) 17 Cal.4th 763, 788, 72 Cal.Rptr.2d 624, 952 P.2d 641, emphasis  
5 added.) To satisfy this standard, " '[t]here must be a logical connection of licensees' [or  
6 applicants'] conduct to their fitness or competence to practice the profession or to the  
7 qualifications, functions, or duties of the profession in question.' " *Griffiths v. Superior Court*  
8 (2002) 96 Cal.App.4th 757, 769, 117 Cal.Rptr.2d 445.)  
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10 And the CMB's own history supports our position. Over the past several decades virtually  
11 every case before the CMB falls into one of three categories: abuse of a patient (sexual assault),  
12 gross negligence (drunk in the OR), or allegations of health care financial fraud (billing.) The  
13 CMB has never alleged that a misdemeanor trespass is connected to practicing medicine.

14 Clearly, a misdemeanor for trespass has no "logical connection" to a physician's fitness or  
15 competence to practice medicine, and consequently, does not support the revocation of a  
16 physician's license or any other form of discipline.  
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18 **D. Does the Conviction of Any Crime Justify Adverse Action on a Professional**  
19 **License for "Unprofessional Conduct".**

20 A statute constitutionally can prohibit an individual from practicing a lawful profession  
21 only for reasons related to his or her fitness or competence to practice that profession. (*Hughes v.*  
22 *Board of Architectural Examiners*, 17 Cal. 4<sup>th</sup> at 788). Thus, the state can impose discipline on a  
23 professional license only if the conduct upon which the discipline is based relates to the practice of  
24 the particular profession and thereby demonstrates an unfitness to practice such profession.  
25 *Griffiths v. Medical Board of California* (2002) 96 Cal. App. 4<sup>th</sup> 757,769. "There must be a logical  
26 connection of licensees' conduct to their fitness or competence to practice the profession of the  
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1 qualifications, functions or duties of the profession in question.” (*Clare v. State Bd. Of*  
2 *Accountancy* (1992) 10 Cal. App. 4<sup>th</sup> 294 at 302.)

3 In *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 82 Cal.Rptr. 175, 461 P.2d  
4 375, the Supreme Court held that the term "unprofessional conduct" under former Education Code  
5 § 13202 covered only that conduct "which indicates unfitness to teach." (*Morrison* , at p. 225, 82  
6 Cal.Rptr. 175, 461 P.2d 375.) The Court concluded that the term had to "depend upon, and thus  
7 relate to, the occupation involved" since "the Legislature surely did not mean to endow the  
8 employing agency with the power to dismiss any employee whose personal, private conduct  
9 incurred its disapproval." (Id. at pp. 225, 227, 82 Cal.Rptr. 175, 461 P.2d 375.)

11 In *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 146 Cal.Rptr. 653, (a  
12 case that the CMB has cited in support of its position), the Third District Court of Appeal  
13 interpreted former Business & Professions Code § 2361, as does § 2761(a). This statute defined  
14 "unprofessional conduct" to include but not be limited to certain types of conduct. (*Shea* , at p.  
15 575, 146 Cal.Rptr. 653.) Citing *Morrison* , The *Shea* Court observed that this language did "not  
16 mean ... that an overly broad connotation is to be given the term ‘unprofessional conduct;’ it must  
17 relate to conduct which indicates an unfitness to practice medicine." ( *Ibid.* ) Specifically, the court  
18 interpreted the term to mean "that conduct which breaches the rules or ethical code of a profession,  
19 or conduct which is unbecoming a member in good standing of a profession." ( *Ibid.* )  
20 Subsequently, Division Three of this Court cautioned that *Shea* ’s language about " ‘conduct  
21 which breaches the rules or ethical code of a profession’ " was "at best dicta or at least an  
22 overstatement of the applicable law," explaining that the touchstone was " ‘unfitness to practice  
23 medicine.’" (See *Thorburn v. Department of Corrections* (1998) 66 Cal.App.4th 1284, 1289-1291,  
24 78 Cal.Rptr.2d 584.) See also, *Moustafa v. Bd of Registered Nursing* (2018) 29 Cal. App. 5th 1119  
25 and *Arneson v. Fox* (1980) 28 Cal. 3d 490 for the general proposition that the substantial  
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1 relationship requirement stems from the due process principle that a statute constitutionally can  
2 prohibit an individual from practicing a lawful profession *only* for reasons related to his or her  
3 fitness or competence to practice.

4 **E. Can Dr. Gold Receive a Fair and Impartial Hearing From the CMB?**

5 The administrative disciplinary action which the CMB has brought against Dr. Gold is  
6 governed by the Government Code (Hereinafter “GC”) §§ 11000 et seq. With respect to Dr.  
7 Gold’s claim that CMB President Lawson and the CMB are irrevocably biased against Dr. Gold,  
8 GC § 11425.40 is titled “Bias, prejudice or interest,” and contemplates this situation can arise as  
9 well as the process to protect the individual’s by providing, in relevant part, (a) “The presiding  
10 officer is subject to disqualification for bias, prejudice, or interest in the proceeding.” Part (c)  
11 provides “The provisions of this section governing disqualification of the presiding officer also  
12 govern of the agency head or other person or body to which the power to hear or decide in the  
13 proceeding is delegated.” GC § 11512 (c) requires that “An administrative law judge or agency  
14 member shall voluntarily disqualify themselves and withdraw from any case in which there are  
15 grounds for disqualification, including disqualification under Section 11425.40.” (Emphasis  
16 added). § 11512 (c) also provides that a party may request the disqualification of an agency  
17 member “...by filing an affidavit, prior to the taking of evidence at the hearing, stating with  
18 particularity the grounds upon which it is claimed that the ... agency member is disqualified.  
19 Where the request concerns an agency member, the issue shall be determined by the other member  
20 of the agency.” As set forth in the Statement of Facts below, Dr. Gold has presented the agency  
21 with the requisite affidavit (See Exhibit “A” hereto).

22 Even where the matter is decided by the ALJ, the CMB retains ultimate authority over the  
23 fate of the doctor’s license. GC § 11517 (c) provides that after the ALJ has rendered the decision,  
24 the CMB may (A) adopt the decision in its entirety, (B) reduce or mitigate the proposed penalty,  
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1 (C) Make technical or other minor changes in the proposed decision, (D) Reject the proposed  
2 decision and refer the case to the same administrative law judge if reasonably available, to take  
3 additional evidence, or (E) reject the proposed decision and decide the case upon the record. Here,  
4 as set forth in Exhibit “A” hereto, Kristina Lawson, the President of the California Medical Board  
5 wrote in a letter to the judge presiding over Dr. Gold’s sentencing hearing, “Simone Gold and her  
6 organization have actively targeted me because I am a public official. She orchestrated a series of  
7 terrorizing events in any attempt to intimidate me and silence me. Consistent with the crimes she  
8 committed on January 6, 2021, over the course the courses of the past six months she has  
9 attempted to impede and obstruct California’s legal processes by targeting and terrorizing me. She  
10 is dangerous and must be stopped.” The CMB now claims that that it holds no bias against Dr.  
11 Gold.  
12

13 **IV. CONCLUSION**

14 It cannot be reasonably disputed that Dr. Gold did anything which impacted her ability to  
15 competently practice medicine. Her record of over twenty years’ work as an exemplary ER  
16 physician in the most underserved regions in our state without a single patient complaint...ever-  
17 speaks for itself. In addition, her actions and motivations surrounding the January 6, 2021  
18 appearance and entry into the capitol building had absolutely nothing to do with her qualifications,  
19 functions or duties as a physician. She did not evidence a present or potential unfitness to perform  
20 her duties as a medical license holder. There was nothing she did which is unbecoming a member  
21 in good standing of the medical profession, and which demonstrates an unfitness to practice  
22 medicine. The unspoken truth about Dr. Gold’s appearance at the Capitol on January 6, 2021 is  
23 that if she had been preaching “Fauci was right” and “Lockdowns will save us all” – no matter  
24 how much of a disturbance she had caused, the California Medical Board would never have  
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pursued her license at all. But she was preaching “early treatment works, lockdowns don’t, and not to live in fear.” And here we are nearly two years later.

The subjective beliefs of the CMB and the proof provided, if any, do not reflect clear and convincing proof to a reasonable certainty that Dr. Gold violated *any* statutory provision which would justify disciplinary action of any kind. For this reason, Dr. Gold should not be subject to any disciplinary action by the California Medical Board based on the Accusation at issue herein.

Respectfully Submitted,  
**Law Offices of Heather Gibson, P.C.**



Dated: November 6, 2023

By: \_\_\_\_\_  
Heather E. Gibson, Esq.,  
Stanley L. Gibson, Esq.,  
Attorneys for RESPONDENT

**Exhibit “A”**

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

In the Matter of the Investigation of:  
Simone Melissa Gold, M.D.,  
  
Responding Party,

Case No. 800-2021-074424

**AFFIDAVIT OF SIMONE MELISSA  
GOLD, M.D.**

Dr. Simone Gold, a resident of Naples, State of Florida, personally came and appeared before the undersigned Notary Public and makes her statement under oath, in good faith, and under penalty of perjury, of sincere belief and personal knowledge or on information and belief, that the following matters and facts are true and correct to the best of her personal knowledge:

1. I am a licensed medical doctor, licensed by the State of California pursuant to lic # G 70224. That certificate is in full force and effect.
2. On January 30, 2023, the Medical Board of California (hereinafter MBC) issued an Accusation for disciplinary action against my license, signed by the Deputy Director of the MBC, Reji Varghese
3. At all times mentioned herein, Kristina D. Lawson was, and currently is, the President of the Medical Board of California, the party bringing the action against my license.
4. In a letter dated June 10, 2022, attached hereto as Exhibit A, MBC President Lawson made numerous accusations against me personally, claiming among many other things, that I had harassed her for 6 months via an organization called America's Frontline Doctors, causing her great anxiety and fear, and that I had called for her to resign her position as MBC President.



1           5.       On December 10, 2021, the San Francisco Chronicle published an article setting  
2 forth MBC President Lawson's allegations against me regarding events allegedly occurring on  
3 Dec. 6, 2021. Included in that article was the following statement:

4 "Bill Prasifka, executive director of the Medical Board of California, said all board members and  
5 staff have been "advised to remain vigilant to their surroundings and provided security  
6 reminders." He said that in addition to the Walnut Creek police, the California Highway Patrol and  
7 Department of Consumer Affairs have been notified about the incident. (See Exhibit "B" attached  
8 hereto.)

9           6.       Based on public California Legislative records created by the Legislative Analyst,  
10 Assembly Bill 2098 was introduced in the Assembly on February 14, 2022 to attack the licenses of  
11 California doctors who spread "disinformation and misinformation" about Covid. At a 4/19/22  
12 Assembly hearing on the bill, attached hereto as Exhibit "C", I was specifically targeted on page 9  
13 of the record:

14           "p. 9. In December of 2021, it was reported that representatives of an anti-vaccination  
15 organization called America's Frontline Doctors had stalked and intimidated Kristina Lawson,  
16 President of the MBC.12 This harassment was escalated in April of 2022 when that same  
17 organization "released a 21-minute video that depicts Lawson in Nazi regalia, a whip in her hand  
18 and swastika on her shoulder, and shows a clip of the garage confrontation validating Lawson's  
19 description."

20           "America's Frontline Doctors was founded by Dr. Simone Gold, who holds an active  
21 license in California as a physician. Dr. Gold and her organization have vociferously promoted  
22 hydroxychloroquine as a COVID-19 treatment, despite evidence increasingly showing it to be  
23 ineffective and potentially unsafe.14 Dr. Gold has engaged in multiple campaigns to stoke public  
24 distrust in COVID-19 vaccines, characterizing them as "experimental" despite numerous safety  
25 and efficacy trials successfully confirming their safety and efficacy.

26           "Dr. Gold spoke at a rally held in conjunction with the attempted insurrection on the  
27 United States Capitol on January 6, 2021; she was arrested and subsequently pleaded guilty to a  
28

1 misdemeanor relating to that event. Despite what would appear to be repeated conduct  
2 perpetrated by Dr. Gold involving the dissemination of false information regarding COVID-19,  
3 Dr. Gold's license remains active with the MBC and there appears to be no record of any  
4 disciplinary action taken against her.

5 "Given the air of legitimacy she sustains from her status as a licensed physician, Dr. Gold  
6 likely serves as an illustrative example of the type of behavior that the author of this bill seeks to  
7 unequivocally establish as constituting unprofessional conduct for physicians in California.  
8 Regardless of whether similar authority is already available to the MBC through other enforceable  
9 provisions in the Medical Practice Act, it is understandable that the author desires to make this  
10 authority explicit and confirm that doctors licensed in California who disseminate misinformation  
11 or disinformation should be held fully accountable."

12 7. On May 13, 2022, the Analyst reported on an Assembly floor hearing on 2098,  
13 quoting the same information quoted above, targeting me.

14 8. On June 27, 2022, the Analyst reported that the MBC supported passage of 2098  
15 with an amendment.

16 9. On August 22, the Analyst reported on an Assembly floor hearing on 2098 again  
17 quoting the same information quoted above, targeting me.

18 10. I do not know who provided the Legislative Analyst with the information  
19 identifying me in paragraph No's 6.7. and 9, above.

20 11. Based on the foregoing, it is clear that President Lawson has a personal vendetta  
21 against me and that I cannot receive a fair and impartial hearing before the MBC if President  
22 Lawson participates in any way, or has participated in any way leading up to the Accusation, or in  
23 any decision involving the Accusation against me.

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26 ///

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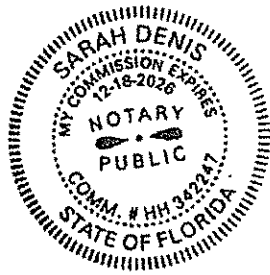
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12. Based on the information in #5, 6, 7 8 and 9, above, it appears that I cannot receive a fair and impartial hearing from the Board or its staff, including Dr. Varghese.

Executed this 17 day of August, 2023 at Naples (City),  
Florida (State).

By:   
SIMONE MELISSA GOLD



Sarah Denis  
  
8-17-23

# EXHIBIT A

KRISTINA D. LAWSON  
MANAGING PARTNER  
DIRECT DIAL (825) 748-8474  
DIRECT FAX (825) 748-8490  
E-MAIL [klawson@hansonbridgett.com](mailto:klawson@hansonbridgett.com)



June 10, 2022

Judge Christopher R. Cooper  
United States District Court  
District of Columbia  
333 Constitution Avenue, N.W.  
Washington D.C. 20001

Re: United States v. Simone Gold  
Criminal Case No. 1:21-CR-85-CRC-2

Dear Judge Cooper:

I am grateful for the opportunity to provide a written statement to the Court in advance of the sentencing of Simone Gold for crimes she committed on January 6, 2021 when she participated in the attack on the United States Capitol. This statement describes my experience as a victim of Simone Gold's harassment over the past six months. Her actions have provoked and inspired menacing threats against me from individuals across the country. I have been stalked and accosted at my home and place of employment, causing great anxiety and fear. Through Simone Gold's acts of attempted intimidation, she continues to seek to undermine public officials and the role of our government as she did with her participation in the violent insurrection on January 6, 2021.

Eleven months to the day after she unlawfully breached the Capitol Complex, and ten months after she was indicted, Simone Gold and her organization America's Frontline Doctors turned their attention to California - targeting and harassing me at my home, at my office, and on social media.<sup>1</sup>

In addition to my role as the chief executive of a California-based law firm, I am also a gubernatorial appointee to the Medical Board of California, where I currently serve as the Board President. The Medical Board of California's mission is to protect health care consumers through the proper licensing and regulation of physicians and surgeons and certain allied health care professionals and through the vigorous, objective enforcement of California's Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions. Simone Gold currently has a license to practice medicine in the State of California issued by the Medical Board of California.

On December 6, 2021, at Simone Gold's behest, a group of men followed me and accosted me in a dark parking garage when they believed I would be alone. They began that day at my home, where they flew a drone above my house to record my family, watched my

<sup>1</sup> See <https://www.latimes.com/business/story/2022-04-06/covid-anti-vaxxers-campaign-against-public-health-advocates-gets-more-extreme>

Judge Christopher R. Cooper  
June 10, 2022  
Page 2

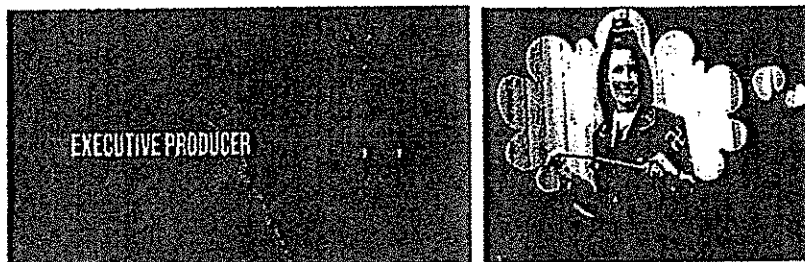
seventeen year old daughter drive herself to school, and then followed me while I drove my two sons (ages twelve and six) to school. I later learned that the group had a gun in their vehicle.

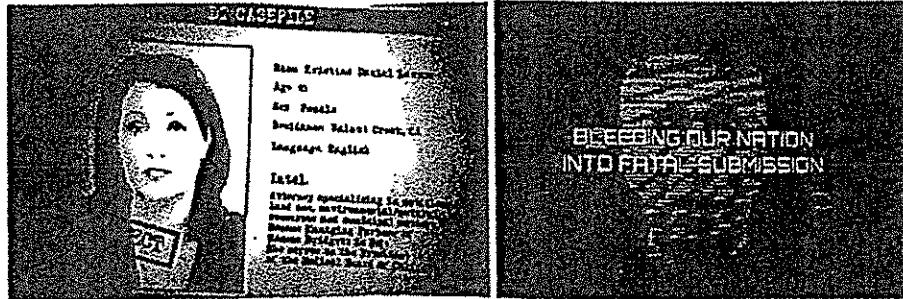
They then followed me to work, where they parked a large SUV head-to-head with my car in the parking garage that is attached to my office building. After waiting several hours for me to return, when I left the office and entered the parking garage in the evening, the group of men jumped out of the SUV with cameras and recording equipment and ambushed me as I tried to get in my car to drive home. I was terrified, and immediately dialed 911.



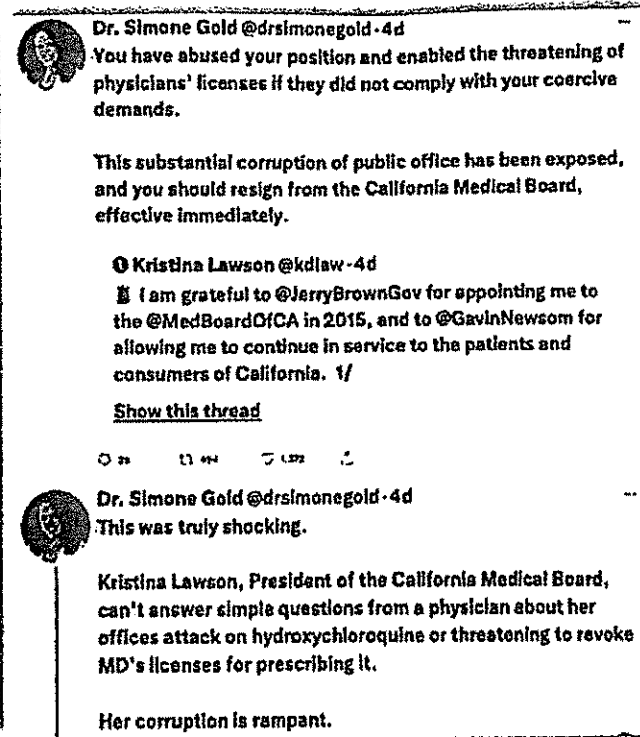
When contacted by law enforcement later that evening, the armed private investigator traveling with the group indicated that the group was producing a video about me. On January 29, 2022, a "trailer" of the video was released widely on social media, and this trailer included footage of me that had been filmed in the dark parking garage on December 6, 2021. Simone Gold herself tweeted the video to her 400,000+ followers on Twitter. The trailer video dangerously and falsely implied that I have committed crimes against my fellow citizens.

Two months later, on March 31, 2022, Simone Gold coordinated and released a 21-minute video about me entitled *Lawson's Hunt*: <https://americasfrontlinedoctors.org/videos/post/doc-tracy-pi-s1-e1-lawsons-hunt/>. This video prominently features Simone Gold, and she is identified as the Executive Producer. In the video I am depicted as a Nazi with a swastika on my arm and compared to Joseph Stalin. The video also dangerously and falsely accuses me of crimes, corruption, tyranny, and lying to the public.





Again, Simone Gold herself tweeted the video to her 400,000+ followers on Twitter, and also released the video via other social media and email channels. In connection with the release of the video, she also provided my professional email address to her followers, and encouraged them to send me emails at work. Many of her followers did so, and others found my phone numbers and called me at work and on my cell phone.



I received numerous threatening and offensive messages as a result of her campaign against me and her request that her followers contact me. The menacing messages called for me to be prosecuted by the military, jailed, and put to death.

Judge Christopher R. Cooper  
June 10, 2022  
Page 4

Original Message  
From: Susan Sebring <smsebring@gmail.com>  
Sent: Wednesday, April 13, 2022 8:21 AM  
To: Kristina D. Lawson  
Subject: [EXTERNAL] Grimo Bound

EXTERNAL: Use caution when opening attachments, links or responding to this e-mail  
You know what you're doing We know what you're doing Enjoy Grimo you murdering treasonous Cowd!  
Tic Toc!

From: Robert Alquist <ralquist@privatemail.com>  
Sent: Monday, April 4, 2022 10:35 PM  
To: [REDACTED]  
Subject: [EXTERNAL] Following Orders

Hello y'all, "Following orders" does NOT cut it any more than it did in the Nuremberg trials! Please learn from History before it's too late  
for you  
Your 'Common Mktz'

Since December 6, 2021, not a day goes by that I don't look over my shoulder wondering if I am being followed. I have had to hire private security to ensure my safety, and the safety of my family and my colleagues. I am an executive and a government official, but more importantly I am a mother of three young children, a wife, a daughter, a sister, and a friend. The past six months have been marked with fear and anxiety for me, and for my family and my friends.

Simone Gold and her organization have actively targeted me because I am a public official. She orchestrated a series of terrorizing events in an attempt to intimidate me and silence me. Consistent with the crimes she committed on January 6, 2021, over the course of the past six months she has attempted to impede and obstruct California's legal processes by targeting and terrorizing me. She is dangerous and must be stopped.

My sincere appreciation for your consideration of this statement.

Respectfully,



Kristina D. Lawson  
Managing Partner



# EXHIBIT B

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Updated: Dec. 10, 2021 5:04 p.m.





California Medical Board President Kristina Lawson took photos of a suspicious SUV outside her home and office in Walnut Creek on Dec. 6. Lawson said she believed the people followed her and were members of a COVID-19 misinformation group.  
Provided by Kristina Lawson

The president of California's medical board said she was "followed and confronted" by members of a group under investigation by a U.S. House of Representatives panel for promoting dubious COVID-19 treatments, saying they flew a drone over her family's Walnut Creek home and "ambushed" her outside her office.

Kristina Lawson, the chief executive of law firm Hanson Bridgett who has served on the state medical board since 2015, described the ordeal on [Twitter](#), saying it started when strangers parked outside her home Monday morning and ended that evening at a parking garage near her office "when four men jumped out of the SUV with cameras and recording equipment and confronted me as I tried to get into my car to drive home."

She said they identified themselves as members of America's Frontline Doctors, an organization that claims on its website to be "protecting physician independence from government overreach." The name was emblazoned on their jackets and a microphone.

The organization came under investigation by federal lawmakers in October for offering online prescriptions for unproven drugs to treat COVID-19, including malaria drug hydroxychloroquine and horse dewormer ivermectin. In a letter to the group's founder Dr. Simone Gold, Rep. James Clyburn, D-S.C., chairman of the Select Subcommittee on the Coronavirus Crisis, said he was concerned the group is "endangering American lives and harming our efforts to stop the spread of the virus."

Lawson said she contacted law enforcement. Police told her those who had followed her said they "just wanted to interview me." Lawson said in her tweets that they hadn't requested an interview through the medical board or her employer.

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"Instead, they ambushed me in a dark parking garage when they suspected I would be alone. The private investigator traveling with them told law enforcement they are producing a video about me that will include footage of my house and neighborhood, and, of course, me."

Walnut Creek police didn't respond to a request for information about the incident.

Lawson declined an interview but provided information through a corporate public affairs spokesman.

America's Frontline Doctors didn't respond to a request for comment late Wednesday.

Bill Prasifka, executive director of the Medical Board of California, said all board members and staff have been "advised to remain vigilant to their surroundings and provided security reminders." He said that in addition to the Walnut Creek police, the California Highway Patrol and Department of Consumer Affairs have been notified about the incident.

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"I stand in solidarity with Board President Kristina Lawson and condemn any attempt to intimidate board members and staff or subjugate the board's mission of consumer protection," he said.

Lawson said the incident began Monday morning when people parked a rented SUV near the end of her driveway and "flew a drone over my house."

"They watched my daughter drive herself to school and watched me walk out of my house, get in my car, and take my two kids to school," she wrote.

Lawson said they then followed her to work "and parked the SUV head-to-head with my car in the parking garage that is attached to my office building."

Lawson said she would not be deterred from her work and criticized efforts to spread misinformation about the coronavirus.

"COVID-19 has killed almost 800,000 Americans, and we must remain vigilant against new variants and against those that peddle fake, dangerous misinformation," she said.

State Sen. Richard Pan, D-Sacramento, issued a statement decrying a pattern of intimidation of "people doing their jobs" by "anti-vaccine extremists and others who peddle disinformation and know they cannot succeed with facts and science."

"This behavior is not only a threat to the public servants, but a danger to the entire public," Pan wrote. "We will all be harmed if public servants are bullied for protecting us."

*Julie Johnson is a San Francisco Chronicle staff writer. Email: [julie.johnson@sfchronicle.com](mailto:julie.johnson@sfchronicle.com) Twitter: [@juliejohnson](https://twitter.com/juliejohnson)*

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Written by  
Julie Johnson

Reach Julie on

Julie Johnson is a reporter with The Chronicle's climate and environment team. Previously she worked as a staff writer at the Santa Rosa Press Democrat, where she had a leading role on the team awarded the 2018 Pulitzer in breaking news for coverage of 2017 wildfires.

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BY NAHI SUMIDA

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San Francisco Chronicle

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# EXHIBIT C



Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS  
Marc Berman, Chair  
AB 2098 (Low) – As Introduced February 14, 2022

**SUBJECT:** Physicians and surgeons: unprofessional conduct.

**SUMMARY:** Expressly provides that the dissemination of misinformation or disinformation related to COVID-19 by physicians and surgeons constitutes unprofessional conduct.

**EXISTING LAW:**

- 1) Enacts the Medical Practice Act, which provides for the licensure and regulation of physicians and surgeons. (Business and Professions Code (BPC) §§ 2000 *et seq.*)
- 2) Establishes the Medical Board of California (MBC), a regulatory board within the Department of Consumer Affairs (DCA) comprised of 15 appointed members. (BPC § 2001)
- 3) Enacts the Osteopathic Act, which provides for the licensure and regulation of osteopathic physicians and surgeons. (BPC §§ 2450 *et seq.*)
- 4) Establishes the Osteopathic Medical Board of California (OMBC), which regulates osteopathic physicians and surgeons who possess effectively the same practice privileges and prescription authority as those regulated by MBC but with a training emphasis on diagnosis and treatment of patients through an integrated, whole-person approach. (BPC § 2450)
- 5) Provides that protection of the public shall be the highest priority for both the MBC and the OMBC in exercising their respective licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 2001.1; § 2450.1)
- 6) Entrusts the MBC with responsibility for, among other things, the enforcement of the disciplinary and criminal provisions of the Medical Practice Act; the administration and hearing of disciplinary actions; carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge; suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions; and reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board. (BPC § 2004)
- 7) Authorizes the MBC to appoint panels of at least four of its members for the purpose of fulfilling its disciplinary obligations and provides that the number of public members assigned to a panel shall not exceed the number of licensed physician and surgeon members. (BPC § 2008)
- 8) With approval from the Director of Consumer Affairs, authorizes the MBC to employ an executive director as well as investigators, legal counsel, medical consultants, and other assistance, but provides that the Attorney General is legal counsel for the MBC in any judicial and administrative proceedings. (BPC § 2020)

- 9) Allows the MBC to select and contract with necessary medical consultants who are licensed physicians to assist it in its programs. (BPC § 2024)
- 10) Empowers the MBC to take action against persons guilty of violating the Medical Practice Act. (BPC § 2220)
- 11) Requires the Director of Consumer Affairs to appoint an independent enforcement monitor no later than March 1, 2022 to monitor the MBC's enforcement efforts, with specific concentration on the handling and processing of complaints and timely application of sanctions or discipline imposed on licensees and persons in order to protect the public. (BPC § 2220.01)
- 12) Requires the MBC to prioritize its investigative and prosecutorial resources to ensure that physicians representing the greatest threat of harm are identified and disciplined expeditiously, with allegations of gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients receiving the highest priority. (BPC § 2220.05)
- 13) Clarifies that the MBC is the only licensing board that is authorized to investigate or commence disciplinary actions relating to the physicians it licenses. (BPC § 2220.5)
- 14) Provides that a licensee whose matter has been heard by an administrative law judge, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the MBC, may be subject to various forms of disciplinary action. (BPC § 2227)
- 15) Provides that all proceedings against a licensee for unprofessional conduct, or against an applicant for licensure for unprofessional conduct or cause, shall be conducted in accordance with the Administrative Procedure Act. (BPC § 2230)
- 16) Requires the MBC to take action against any licensee who is charged with unprofessional conduct, which includes, but is not limited to, the following:
  - a) Violating or aiding in the violation of the Medical Practice Act.
  - b) Gross negligence.
  - c) Repeated negligent acts.
  - d) Incompetence.
  - e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician.
  - f) Any action or conduct that would have warranted the denial of a certificate.
  - g) The failure by a physician, in the absence of good cause, to attend and participate in an investigatory interview by the MBC.

(BPC § 2234)

- 17) Provides that a physician shall not be subject to discipline solely on the basis that the treatment or advice they rendered to a patient is alternative or complementary medicine if that treatment or advice was provided after informed consent and a good-faith prior examination; was provided after the physician provided the patient with information concerning conventional treatment; and the alternative complementary medicine did not cause a delay in, or discourage traditional diagnosis of, a condition of the patient, or cause death or serious bodily injury to the patient. (BPC § 2234.1)
- 18) Provides that the conviction of any offense substantially related to the qualifications, functions, or duties of a physician constitutes unprofessional conduct. (BPC § 2236)
- 19) Provides that violating a state or federal law regulating dangerous drugs or controlled substances, constitutes unprofessional conduct. (BPC §§ 2237 – 2238)
- 20) Provides that self-prescribing of a controlled substance, or the use of a dangerous drug or alcoholic beverages to the extent that it is dangerous or injurious to the physician or any other person, or impairs the physician's ability to practice, constitutes unprofessional conduct. (BPC § 2239)
- 21) Provides that prescribing, dispensing, or furnishing dangerous drugs without an appropriate prior examination and a medical indication constitutes unprofessional conduct. (BPC § 2242)
- 22) Provides that the willful failure to comply with requirements relating to informed consent for sterilization procedures constitutes unprofessional conduct. (BPC § 2250)
- 23) Provides that the prescribing, dispensing, administering, or furnishing of liquid silicone for the purpose of injecting such substance into a human breast or mammary constitutes unprofessional conduct. (BPC § 2251)
- 24) Provides that the violation of an injunction or cease and desist order relating to the treatment of cancer constitutes unprofessional conduct. (BPC § 2252)
- 25) Provides that failure to comply with the Reproductive Privacy Act governing abortion care constitutes unprofessional conduct. (BPC § 2253)
- 26) Provides that the violation of laws relating to research on aborted products of human conception constitutes unprofessional conduct. (BPC § 2254)
- 27) Provides that the violation of laws relating to the unlawful referral of patients to extended care facilities constitutes unprofessional conduct. (BPC § 2255)
- 28) Provides that any intentional violation of laws relating to the rights of involuntarily confined inpatients constitutes unprofessional conduct. (BPC § 2256)
- 29) Provides that the violation of laws relating to informed consent for the treatment of breast cancer constitutes unprofessional conduct. (BPC § 2257)
- 30) Provides that the violation of laws relating to the use of laetrile or amygdalin with respect to cancer therapy constitutes unprofessional conduct. (BPC § 2258)

- 31) Provides that failing to give a patient a written summary prior to silicone implants being used in cosmetic, plastic, reconstructive, or similar surgery constitutes unprofessional conduct. (BPC § 2259)
- 32) Provides that failing to give a patient a written summary prior to collagen injections being used in cosmetic, plastic, reconstructive, or similar surgery constitutes unprofessional conduct. (BPC § 2259.5)
- 33) Provides that any violation of extraction and postoperative care standards constitutes unprofessional conduct. (BPC § 2259.7)
- 34) Provides that the removal of sperm or ova from a patient without written consent constitutes unprofessional conduct. (BPC § 2260)
- 35) Provides that the violation of laws relating to human cloning constitutes unprofessional conduct. (BPC § 2260.5)
- 36) Provides that knowingly making or signing any certificate related to the practice of medicine which falsely represents the existence or nonexistence of a state of facts constitutes unprofessional conduct. (BPC § 2261)
- 37) Provides that altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct. (BPC § 2262)
- 38) Provides that numerous other inappropriate activities or violations of the law constitute unprofessional conduct. (BPC §§ 2263 – 2318)
- 39) Requires that licensees be given notification of proposed actions to be taken against the licensee by the MBC and be given the opportunity to provide a statement to the deputy attorney general assigned to the case. (BPC § 2330)

**THIS BILL:**

- 1) Provides that the dissemination or promotion of misinformation or disinformation related to COVID-19 by a physician and surgeon constitutes unprofessional conduct.
- 2) Includes false or misleading information regarding the nature and risks of the COVID-19 virus, its prevention and treatment, and the development, safety, and effectiveness of COVID-19 vaccines as types of misinformation or disinformation that could be disseminated.
- 3) Requires the MBC or OMBC to consider the following factors prior to bringing a disciplinary action against a licensee for disseminating misinformation or disinformation:
  - a) Whether the licensee deviated from the applicable standard of care.
  - b) Whether the licensee intended to mislead or acted with malicious intent.
  - c) Whether the misinformation or disinformation was demonstrated to have resulted in an individual declining opportunities for COVID-19 prevention or treatment that was not justified by the individual's medical history or condition.

- d) Whether the misinformation or disinformation was contradicted by contemporary scientific consensus to an extent where its dissemination constitutes gross negligence by the licensee.
- 4) Defines “physician and surgeon” as a person licensed by either the MBC or the OMBC.
- 5) Provides that violators of the bill’s provisions are not guilty of a misdemeanor.
- 6) Makes various findings and declarations in support of the bill.

**FISCAL EFFECT:** Unknown; this bill is keyed fiscal by the Legislative Counsel.

**COMMENTS:**

**Purpose.** This bill is sponsored by the **California Medical Association**. According to the author:

“AB 2098 is crucial to addressing the amplification of misinformation and disinformation related to the COVID-19 pandemic. Licensed physicians, doctors, and surgeons possess a high degree of public trust and therefore must be held accountable for the information they spread. Providing patients with accurate, science-based information on the pandemic and COVID-19 vaccinations is imperative to protecting public health. By passing this legislation, California will show its unwavering support for a scientifically informed populous to protect ourselves from COVID-19.”

**Background.**

*COVID-19 Pandemic and Vaccines.* To date, over 984,000 people have died of COVID-19 in the United States, including approximately 90,000 Californians.<sup>1</sup> On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency as a result of the impacts of the COVID-19 public health crisis, and on March 19, 2020, the Governor formally issued a statewide “stay at home order,” directing Californians to only leave the house to provide or obtain specified essential services. Subsequent guidance from the State Public Health Officer expressly exempted from that order various professionals regulated by the Department of Consumer Affairs (DCA), including physicians and surgeons providing essential care.

On March 30, 2020, Governor Newsom announced an initiative to “expand California’s health care workforce and recruit health care professionals to address the COVID-19 surge” and signed Executive Order N-39-20. This executive order established a waiver request process under the DCA and included other provisions authorizing the waiver of licensing, certification, and credentialing requirements for health care providers. Through this waiver process, the DCA issued a series of waivers of law to authorize various healing arts professionals to order and administer COVID-19 vaccines. These waivers aligned with similar authority granted federally under the Public Readiness and Emergency Preparedness (PREP) Act for Medical Countermeasures Against COVID-19.

---

<sup>1</sup> Data current as of April 11, 2022; the number of Californians who have died from causes related to COVID-19 has risen 20 percent since this bill was introduced with its current findings and declarations.

Vaccines are regulated and overseen by multiple federal entities responsible for ensuring their safety and efficacy. The federal Food and Drug Administration (FDA) is initially responsible for approving new drugs, determining both that they are safe to administer and that their recommended use is clinically supported. During states of emergency, the FDA may expedite their review through the Emergency Use Authorization (EUA) process to accelerate the availability of new immunizations or treatments. Currently, three vaccines have been approved through the EUA process for COVID-19. These vaccines have additionally been reviewed and found safe by national experts participating in a Western States Scientific Safety Review Workgroup. Data has continued to show that the risks of infection, hospitalization, and death for vaccinated individuals are dramatically lower than for those who have not been vaccinated.<sup>2</sup>

*Misinformation and Disinformation.* This bill is intended to target three types of false or misleading information relating to the COVID-19 pandemic. First, the language refers to nonfactual information regarding “the nature and risks of the virus”—for example, misleadingly comparing COVID-19 to less serious conditions or inaccurately characterizing the deadliness of the disease. Second, the bill seeks to address false statements regarding its “prevention and treatment”—this would presumably include the promotion of treatments and therapies that have no proven effectiveness against the virus. The third category is for misinformation or disinformation regarding “the development, safety, and effectiveness of COVID-19 vaccines.”

Public skepticism and misunderstanding of diseases, treatments, and immunizations is not unique to COVID-19. The earliest known group formed to oppose vaccination programs, the National Anti-Vaccination League, was established in the United Kingdom in 1866 following a series of violent protests against mandatory smallpox immunizations in the Vaccination Act of 1853.<sup>3</sup> In 1918, conspiracy theories were circulated that the Spanish Flu pandemic was a deliberate act of biological warfare, spread through aspirin manufactured by German company Bayer.<sup>4</sup>

What has been historically unprecedented about the dissemination of misinformation and disinformation throughout the COVID-19 pandemic is the omnipresence of media coverage and the prevalence of social media. False information can easily be spread to millions within days or even hours of it being created. It can become challenging for a population already feeling overloaded with complex information to differentiate between thoroughly researched, accurate reporting and information that is oversimplified, unproven, or patently false.<sup>5</sup>

A substantial factor in the spread of false information is a phenomenon known as “confirmation bias.” When individuals hold a preexisting belief or suspicion, they will often unconsciously seek out information to validate that predisposition and filter out contradictory evidence.<sup>6</sup> The persistence of modern media exposure and the internet has exacerbated this effect, as information seeming to support virtually any viewpoint or understanding can now easily be found through the use of search engines and social media. Many websites further exacerbate the issue of confirmation bias by algorithmically delivering consistent information to users who have demonstrated a pattern of belief or ideology.

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<sup>2</sup> Dyer, Owen. “COVID-19: Unvaccinated face 11 times risk of death from delta variant, CDC data show.” *BMJ (Clinical research ed.)* vol. 374 (2021).

<sup>3</sup> Wolfe, Robert M. “Anti-vaccinationists past and present.” *BMJ (Clinical research ed.)* vol. 325 (2002).

<sup>4</sup> Johnson, Norman A. “The 1918 flu pandemic and its aftermath.” *Evo Edu Outreach* 11, 5 (2018).

<sup>5</sup> Nelson, Taylor. “The Danger of Misinformation in the COVID-19 Crisis.” *Missouri medicine* vol. 117, 6 (2020).

<sup>6</sup> Nickerson, Raymond S. “Confirmation bias: A ubiquitous phenomenon in many guises.” *Review of General Psychology*, 2 (1998).

The role of physicians and other health professionals in legitimizing false information during the COVID-19 pandemic has presented serious implications for public safety. For example, the federal Centers for Disease Control and Prevention (CDC) has for decades been recognized as the United States government's primary agency for protecting Americans through expert research and advice related to the control and prevention of communicable disease. The CDC has consistently warned Americans about the threat of COVID-19 and strongly encouraged vaccination. However, throughout the pandemic, many individuals who are predisposed toward skepticism of the government and incredulity toward vaccines have sought to validate those views, despite unambiguous guidance to the contrary from leading health experts.

As a result, health practitioners whose views on COVID-19 and immunization against it are within the extreme minority for their profession are armed with a disproportionately loud voice in the public discourse. Antigovernment cynics and vaccine skeptics cohere to the opinions of those few physicians who will reinforce their beliefs as they seek to appeal to authority in service of their confirmation bias.<sup>7</sup> The effect of this is that a relatively small group of public health contrarians who are licensed as physicians will be afforded the same, if not more, credibility as long-trusted public institutions like the CDC, the FDA, and the American Medical Association, even if those physicians do not specialize in epidemiology or infectious disease prevention.

The incongruity of this reasoning is frequently rationalized in part through conspiracy theories about the medical establishment. This is not novel. When allopathic medicine first achieved dominance during the Progressive Era, there were many who vilified the medical system as financially motivated, accusing "modern medicine men" of oppressing natural therapies in order to profit from a monopoly on health care practice.<sup>8</sup> Other related conspiracy theories frequently involve the United States government, which has been accused of everything from inventing or exaggerating the pandemic to suppressing natural remedies, or even using COVID-19 vaccines as a clandestine method for implanting microchips into Americans.<sup>9</sup>

*Role of State Medical Boards.* Physicians and surgeons in California are regulated by one of two entities: the Medical Board of California (MBC) or the Osteopathic Medical Board of California (OMBC). The MBC licenses and regulates about 153,000 physicians while the OMBC licenses and regulates slightly over 12,000. Despite receiving different forms of medical education and being overseen by separate boards, the essential scope of practice for these two categories of licensees are virtually identical.

In July of 2021, the Federation of State Medical Boards (FSMB) issued a statement positioned as being "in response to a dramatic increase in the dissemination of COVID-19 vaccine misinformation and disinformation by physicians and other health care professionals on social media platforms, online and in the media." The FSMB warned that physicians who engage in the spread of false information related to COVID-19 were jeopardizing their licenses to practice medicine. While physicians are subject to discipline only by boards located in states where they hold a license, the FSMB's statement was viewed as a serious warning to doctors that they risked disciplinary action if they engaged in spreading inaccurate information.

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<sup>7</sup> Topf, Joel M., and Williams, Paul N. "COVID-19, social media, and the role of the public physician." *Blood Purification* 50.4-5 (2021).

<sup>8</sup> Burrow, JG. *Organized Medicine in the Progressive Era: The Move Toward Monopoly*. Baltimore, MD: Johns Hopkins University Press (1977).

<sup>9</sup> Rubin, Rita. "When Physicians Spread Unscientific Information About COVID-19." *JAMA* 327 (2002).

Following the FSMB's statement, some state medical boards appeared poised to take action against licensees found to be spreading misinformation or disinformation. Tennessee's Board of Medical Examiners adopted the FSMB's statement as their own. However, in response, the state's Republican legislature threatened to disband the board if it sought to take any such action against a physician. Legislation in at least fourteen states has been introduced to prevent medical boards from holding physicians who spread false information accountable in accordance with the FSMB's guidance.<sup>10</sup>

In contrast to legislative action taken in those states, this bill would seek to confirm that in California, physicians who disseminate COVID-19 misinformation or disinformation are indeed subject to formal discipline. The bill would expressly establish that such dissemination would constitute "unprofessional conduct"—a term used prolifically in the Medical Practice Act as a general description of numerous forms of conduct for which disciplinary action may be taken. The MBC or OMBC would be required to consider multiple factors prior to filing an accusation, but would ultimately be authorized to take enforcement action against physicians who have used their licenses to jeopardize public health and safety through the spread of false information.

It is certainly meaningful that this bill would establish as a matter of California law that physicians are subject to discipline for spreading false information. However, it is more than likely that the MBC and OMBC are both already fully capable of bringing an accusation against a physician for this type of misconduct. For example, the Medical Practice Act includes "gross negligence" and "repeated negligent acts" within the meaning of unprofessional conduct, representing situations where the physician deviated from the standard of care in the opinion of the MBC and its expert medical reviewers.

If, for example, a physician were to advise patients to inject disinfectant as a way of treating COVID-19—as former President Trump once did, resulting in a sharp rise in reported incidents of misusing bleach and other cleaning products<sup>11</sup>—disseminating that "misinformation" would almost certainly be considered negligent care subject to discipline. Whether a case of spreading misinformation is sufficient to bring an action for gross negligence would be evaluated using the MBC's expert reviewer guidelines, which provide that "the determining factor is the *degree* of departure from the applicable standard of care." Similarly, it is arguable that spreading "disinformation" as commonly defined would constitute an "act of dishonesty or corruption"—also statutorily included within the Medical Practice Act's meaning of unprofessional conduct.

Those in opposition to this bill have expressed concern that the MBC would overzealously prosecute doctors for expressing views that are outside the mainstream but not indisputably unreasonable based on the physician's research and training. This apprehension cannot easily be reconciled with persistent criticisms levied against the MBC by the Legislature and patient safety advocates, who have repeatedly reproved the board for its underwhelming enforcement activities. Major news editorials have pointed out that the MBC only takes formal disciplinary action in about three percent of cases, and that more than 80 percent of complaints are dismissed without investigation. As the Legislature persists in its admonishment of the MBC for failing to take aggressive action against physicians who commit unprofessional conduct, it would appear dubious that the board would excessively utilize the authority expressly provided by this bill.

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<sup>10</sup> <https://www.audacy.com/wccoradio/news/national/laws-are-stopping-medical-boards-from-punishing-doctors>

<sup>11</sup> Gharpure, Radhika. "Knowledge and Practices Regarding Safe Household Cleaning and Disinfection for COVID-19 Prevention." *Morbidity and Mortality Weekly Report*, 69 (2020).



It stands to reason that Californians who have demonstrated suspicion toward both the medical establishment and their government would be slow to trust the MBC, with a majority of its members consisting of physicians appointed by the Governor. However, the degree of enmity recently exhibited by physicians and others opposed to COVID-19 prevention policies could be viewed as disturbing. In December of 2021, it was reported that representatives of an anti-vaccination organization called America's Frontline Doctors had stalked and intimidated Kristina Lawson, President of the MBC.<sup>12</sup> This harassment was escalated in April of 2022 when that same organization "released a 21-minute video that depicts Lawson in Nazi regalia, a whip in her hand and swastika on her shoulder, and shows a clip of the garage confrontation validating Lawson's description."<sup>13</sup>

America's Frontline Doctors was founded by Dr. Simone Gold, who holds an active license in California as a physician. Dr. Gold and her organization have vociferously promoted hydroxychloroquine as a COVID-19 treatment, despite evidence increasingly showing it to be ineffective and potentially unsafe.<sup>14</sup> Dr. Gold has engaged in multiple campaigns to stoke public distrust in COVID-19 vaccines, characterizing them as "experimental" despite numerous safety and efficacy trials successfully confirming their safety and efficacy.<sup>15</sup> Dr. Gold spoke at a rally held in conjunction with the attempted insurrection on the United States Capitol on January 6, 2021; she was arrested and subsequently pleaded guilty to a misdemeanor relating to that event.

Despite what would appear to be repeated conduct perpetrated by Dr. Gold involving the dissemination of false information regarding COVID-19, Dr. Gold's license remains active with the MBC and there appears to be no record of any disciplinary action taken against her.<sup>16</sup> Given the air of legitimacy she sustains from her status as a licensed physician, Dr. Gold likely serves as an illustrative example of the type of behavior that the author of this bill seeks to unequivocally establish as constituting unprofessional conduct for physicians in California. Regardless of whether similar authority is already available to the MBC through other enforceable provisions in the Medical Practice Act, it is understandable that the author desires to make this authority explicit and confirm that doctors licensed in California who disseminate misinformation or disinformation should be held fully accountable.

**Current Related Legislation.** AB 1636 (Weber) would prohibit the MBC from granting or reinstating physician certificates to individuals who commit sexual misconduct and require the MBC to revoke the licenses of physicians to commit such misconduct. *This bill is pending in this committee.*

AB 1767 (Boerner Horvath) would remove licensed midwives from the jurisdiction of the MBC and establish a new board to license and regulate that profession. *This bill is pending in this committee.*

AB 2060 (Quirk) would change the membership composition of the MBC so that a majority of the board consists of public members. *This bill is pending in this committee.*

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<sup>12</sup> <https://www.latimes.com/business/story/2021-12-10/covid-anti-vax-confrontations>

<sup>13</sup> <https://www.latimes.com/business/story/2022-04-06/covid-anti-vaxxers-campaign-against-public-health-advocates-gets-more-extreme>

<sup>14</sup> Singh, Bhagteshwar. "Chloroquine or hydroxychloroquine for prevention and treatment of COVID-19." *The Cochrane database of systematic reviews* vol. 2, 2 (2021).

<sup>15</sup> <https://www.mcdpagetoday.com/infectiousdisease/covid19/90536>

<sup>16</sup> <https://search.dca.ca.gov/details/8002/G/70224/595d067c562f072a5e7b25c913b285cf>

**Prior Related Legislation.** SB 806 (Roth, Chapter 649, Statutes of 2021) extended the sunset date for the MBC until January 1, 2023 and made numerous reforms to the Medical Practice Act.

AB 1909 (Gonzalez) would have provided that performing an examination on a patient for the purpose of determining whether the patient is a virgin constitutes unprofessional conduct. *This bill was not presented for a vote in this committee.*

AB 1278 (Nazarian) would have provided that failing to post an Open Payments database notice constitutes unprofessional conduct. *This bill was held on the Assembly Appropriations Committee's suspense file.*

SB 1448 (Hill, Chapter 570, Statutes of 2018) requires physicians and surgeons, osteopathic physicians and surgeons, podiatrists, acupuncturists, chiropractors and naturopathic doctors to notify patients of their probationary status beginning July 1, 2019.

#### **ARGUMENTS IN SUPPORT:**

The California Medical Association (CMA) is sponsoring this bill. According to the CMA: "The COVID-19 pandemic has unfortunately led to increasing amounts of misinformation and disinformation related to the disease including how the virus is transmitted, promoting untested treatments and cures, and calling into question public health efforts such as masking and vaccinations. Many health professionals, including physicians, have been the culprits of this misinformation and disinformation effort." The CMA goes on to argue that "while the MBC may have the ability to discipline licensees for unprofessional conduct under Business and Professions Code section 2234, AB 2098 makes clear that the MBC has the statutory authority to take such actions against physicians that spread COVID-19 misinformation or disinformation."

The American Academy of Pediatrics, California is in support of this bill, writing: "Licensed physicians possess a high degree of public trust and therefore have a powerful platform in society. When they choose to spread inaccurate information, physicians contradict their responsibilities and further erode public trust in the medical profession. By passing this bill, California will demonstrate its unwavering support for a scientifically informed populous to protect ourselves from COVID-19."

#### **ARGUMENTS IN OPPOSITION:**

A Voice for Choice Advocacy opposes this bill, writing: "While we agree that physicians and surgeons should be disciplined for maliciously sharing misinformation and disinformation, there are already measures in place for the California Medical Board to discipline for such offenses. Furthermore, AB 2098 is overly broad and would be impossible to implement because there is no definition and no established 'standard of care' or 'contemporary scientific consensus' for treating SARS-COV-2/COVID-19."

Californians for Good Governance opposes this bill "based on concerns about its unconstitutional restrictions on free speech." The organization argues that "while the state may be able to claim that providing the public with accurate information regarding Covid-19 is a compelling interest, it cannot possibly argue that the blunt weapon that AB 2098 represents is narrowly tailored to that interest." The organization further states that "in a country such as ours, which was established on the foundation of civil liberties such as free speech, the truth is something hashed out in the marketplace of ideas, rather than dictated by the government."

**POLICY ISSUE(S) FOR CONSIDERATION:**

*Lack of Definitions.* The intent of this bill is made clear in the subdivision providing that “it shall constitute unprofessional conduct for a physician and surgeon to disseminate or promote misinformation or disinformation related to COVID-19.” However, the terms “misinformation,” “disinformation,” and “disseminate” are not defined. Provisions outlining what factors the MBC or OMBC must consider prior to bringing a disciplinary action do suggest how false information should be deemed enforceable under the bill, with some of the language taken directly from definitions provided by the CDC on its public guidance regarding misinformation and disinformation.<sup>17</sup> To ensure greater clarity with regards to how this bill should be interpreted and implemented by the MBC and the OMBC within their existing enforcement architecture, the author should consider amendments restructuring the bill to provide for clearer definitions.

*Constitutionality.* Many of the opposition arguments regarding this bill have revolved around the concept of “free speech” and whether a state law penalizing physicians for conveying information determined to be false is lawful under the United States Constitution. It is certainly true that the First Amendment prohibits laws “abridging the freedom of speech.” However, the Supreme Court of the United States has repeatedly confirmed that this constitutional right is not absolute.

A key factor in determining whether a statute like the one proposed in this bill violates the First Amendment is whether the law would in fact regulate professional *speech* as opposed professional *conduct*. The United States Court of Appeals for the Ninth Circuit discussed this distinction extensively in its decision upholding the constitutionality of California’s ban on licensed health professionals providing therapies intended to change a patient’s sexual orientation or identity.<sup>18</sup> That decision noted that “doctor-patient communications *about* medical treatment receive substantial First Amendment protection, but the government has more leeway to regulate the conduct necessary to administering treatment itself.”

To illustrate the critical difference between the regulation of professional speech versus professional conduct, the Ninth Circuit suggested that the issue be viewed “along a continuum.” First, the Ninth Circuit stated that “where a professional is engaged in a public dialogue, First Amendment protection is at its greatest. Thus, for example, a doctor who publicly advocates a treatment that the medical establishment considers outside the mainstream, or even dangerous, is entitled to robust protection under the First Amendment—just as any person is—even though the state has the power to regulate medicine.”

The Ninth Circuit then suggested that “at the midpoint of the continuum, within the confines of a professional relationship, First Amendment protection of a professional’s speech is somewhat diminished.” As an example, the decision cited *Planned Parenthood v. Casey*, in which the Supreme Court upheld a requirement that doctors disclose truthful, nonmisleading information to patients about certain risks of abortion. In this case, the Supreme Court ruled that “the physician’s First Amendment rights not to speak are implicated, but only as part of the practice of medicine, subject to reasonable licensing and regulation by the State.”<sup>19</sup>

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<sup>17</sup> <https://www.cdc.gov/vaccines/covid-19/health-departments/addressing-vaccine-misinformation.html>

<sup>18</sup> *Pickup v. Brown*, 728 F.3d 1042 (2015).

<sup>19</sup> *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 884 (1992).

The Ninth Circuit ultimately ruled that California's ban on gay conversion therapy fell at the far end of the continuum, in that it consisted of "the regulation of professional conduct, where the state's power is great, even though such regulation may have an incidental effect on speech." The ruling explained that while much of the practice of medicine requires speech to effectuate treatment and therapy in the form of prescriptions, recommendations, and counseling, this is incidental to the regulation of professional conduct, which is the core purpose of all state and federal license requirements. The Supreme Court declined to grant review of the Ninth Circuit's decision, and the California law remains in effect.

A recent decision issued by the Supreme Court in *National Institute of Family and Life Advocates v. Becerra*—which declared that a California law requiring crisis pregnancy centers to make disclosures about pregnancy options was unconstitutional—has frequently been cited as a key precedent for determining whether state laws implicating professional speech are impermissible under the First Amendment.<sup>20</sup> In that decision, the Supreme Court declined to recognize the Ninth Circuit's treatment of "professional speech" as a separate category afforded less protection than other forms of speech. However, the Supreme Court did affirm that "states may regulate professional conduct, even though that conduct incidentally involves speech."

Whether this bill would be considered constitutionally valid would in large part depend on how it is interpreted and enforced. If the MBC or the OMBC were to take action against a physician for statements made to the general public about COVID-19 through social media or at a public protest, a court may find that this speech falls at the end of the spectrum where the First Amendment's protections are strongest. However, if a physician were to be subjected to formal discipline for communications made to a patient under their care in the form of treatment or advice, this would quite likely be considered professional conduct that may be more heavily regulated through the state's police power.

#### AMENDMENTS:

- 1) To clarify the meaning of terms used in the bill to align with the boards' existing authority to regulate professional conduct, insert the following provisions to the definitions contained in subdivision (c):

*(3) "Misinformation" means false information that is contradicted by contemporary scientific consensus to an extent where its dissemination constitutes gross negligence by the licensee.*

*(4) "Disinformation" means misinformation that the licensee deliberately disseminated with malicious intent or an intent to mislead.*

*(5) "Disseminate" means the communication of information from the licensee to a patient under the licensee's care in the form of treatment or advice.*

- 2) To reflect that much of the language currently provided as factors for a board to consider has been relocated to the bill's definitions, strike the current subdivision (b) and insert the following:

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<sup>20</sup> *National Institute of Family and Life Advocates v. Becerra*, 585 U.S. \_\_\_\_ (2018).

*(b) Prior to bringing a disciplinary action against a licensee under this section, the board shall consider both whether the licensee departed from the applicable standard of care and whether the misinformation or disinformation resulted in harm to patient health.*

- 3) To add a severability clause to protect the enforceability of the bill following any adverse ruling on the validity of a certain provision or application, insert a new Section 3 as follows:

*The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

- 4) To update statistics in the bill's findings and declarations, amend Section 1 to replace "5,000,000" with "6,000,000" and "75,000" with "90,000."

**REGISTERED SUPPORT:**

California Medical Association (*Sponsor*)  
American Academy of Pediatrics, California  
American College of Obstetricians and Gynecologists District IX  
California Chapter of the American College of Emergency Physicians  
California Podiatric Medical Association  
California Rheumatology Alliance  
California Society of Anesthesiologists  
Children's Specialty Care Coalition  
Families for Opening Carlsbad Schools  
Numerous individuals

**REGISTERED OPPOSITION:**

A Voice for Choice Advocacy  
California Health Coalition Advocacy  
Californians for Good Governance  
Catholic Families 4 Freedom CA  
Central Coast Health Coalition  
Children's Health Defense California Chapter  
Concerned Women for America  
Depression and Bipolar Support Alliance California  
Educate. Advocate.  
Frederick Douglass Foundation of California  
Homewatch Caregivers of Huntington Beach  
Nuremberg 2.0 LTD.  
Pacific Justice Institute  
Physicians for Informed Consent  
Protection of the Educational Rights for Kids  
Restore Childhood  
Siskiyou Conservative Republicans  
Stand Up Sacramento County  
Numerous individuals

**Analysis Prepared by:** Robert Sumner / B. & P. / (916) 319-3301

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**PROOF OF SERVICE**  
**In the Matter of the Accusation Against: Simone Melissa Gold**  
**Department of Consumer Affairs Case No. 800-2021-074424**

I am employed in the County of Santa Clara, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 1871 Martin Ave., Santa Clara, CA 95050.

On the date set forth below, I caused the following document(s) entitled:

**RESPONDENT’S PRE-HEARING BRIEF**

to be served on the party(ies) or its (their) attorney(s) of record in this action listed below by the following means:

<b>X</b>	<b>BY MAIL.</b> By placing each envelope (with postage affixed thereto) in the U.S. Mail at the Law Offices of Heather Gibson, P.C., 1871 Martin Ave., Santa Clara, California, 95050 addressed as shown herein. I am readily familiar with this firm’s practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and in the ordinary course of business, correspondence would be deposited with the U.S. Postal Service the same day it was placed for collection and processing.
<b>X</b>	<b>BY ELECTRONIC MAIL.</b> By transmitting a true copy thereof by electronic mail to the interested party(ies) or their attorney(s) of record to said action at the electronic mail address(es) shown herein.

**Christine Rhee, Esq.**  
**Alexandra Alvarez, Esq.**  
**Karolyn Westfall, Esq.**  
**Department of Justice**  
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**Alexandra.Alvarez@doj.ca.gov; Karolyn.Westfall@doj.ca.gov**

**Attorneys for Complainant,**  
**MEDICAL BOARD OF CALIFORNIA**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 6, 2023 at Santa Clara, California.



\_\_\_\_\_  
Anthony A. Piedra  
Law Offices of Heather Gibson, P.C.