

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FILED
LOS ANGELES SUPERIOR COURT

JUN 04 2010

JOHN A. SLATKIE, CLERK
BY J. GONZALEZ, DEPUTY

CASE NO. KA090841

FELONY COMPLAINT

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
01 FARHAD FRED HAFEZI (09/22/1938)
Defendant(s).

The undersigned is informed and believes that:

COUNT 1

On or between August 1, 2009 and May 17, 2010, in the County of Los Angeles, the crime of ORAL COPULATION OF A PERSON UNDER 18, in violation of PENAL CODE SECTION 288a(b)(1), a Felony, was committed by FARHAD FRED HAFEZI, who did unlawfully participate in an act of oral copulation with JANE DOE, a person under the age of eighteen years.

"NOTICE: Conviction of this offense will require the court to order you to submit to a blood test for evidence of antibodies to the probable causative agent of Acquired Immune Deficiency Syndrome (AIDS). Penal Code section 1202.1."

"NOTICE: Conviction of this offense will require to register pursuant to Penal Code section 290 et seq. Willful failure to register is a crime."

"NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of the jail or prison facility where you are incarcerated pursuant to Penal Code Section 1524.1 and Health and Safety Code section 121055 following a probable cause hearing resulting in a court order."

COUNT 2

On or between August 1, 2009 and May 17, 2010, in the County of Los Angeles, the crime of UNLAWFUL SEXUAL INTERCOURSE, in violation of PENAL CODE SECTION 261.5(d), a Felony, was committed by FARHAD FRED HAFEZI, who being over the age of 21 years, did engage in an act of unlawful sexual intercourse with JANE DOE, a minor under the age of 16 years.

"NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of the jail or prison facility where you are incarcerated pursuant to Penal Code Section 1524.1 and Health and Safety Code section 121055 following a probable cause hearing resulting in a court order."

* * * * *

COUNT 3

On or between August 1, 2009 and May 17, 2010, in the County of Los Angeles, the crime of ORAL COPULATION OF A PERSON UNDER 18, in violation of PENAL CODE SECTION 288a(b)(1), a Felony, was committed by FARHAD FRED HAFEZI, who did unlawfully participate in an act of oral copulation with JANE DOE, a person under the age of eighteen years.

"NOTICE: Conviction of this offense will require the court to order you to submit to a blood test for evidence of antibodies to the probable causative agent of Acquired Immune Deficiency Syndrome (AIDS). Penal Code section 1202.1."

"NOTICE: Conviction of this offense will require to register pursuant to Penal Code section 290 et seq. Willful failure to register is a crime."

"NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of the jail or prison facility where you are incarcerated pursuant to Penal Code Section 1524.1 and Health and Safety Code section 121055 following a probable cause hearing resulting in a court order."

* * * * *

COUNT 4

On or between August 1, 2009 and May 17, 2010, in the County of Los Angeles, the crime of UNLAWFUL SEXUAL INTERCOURSE, in violation of PENAL CODE SECTION 261.5(d), a Felony, was committed by FARHAD FRED HAFEZI, who being over the age of 21 years, did engage in an act of unlawful sexual intercourse with JANE DOE, a minor under the age of 16 years.

"NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of the jail or prison facility where you are incarcerated pursuant to Penal Code Section 1524.1 and Health and Safety Code section 121055 following a probable cause hearing resulting in a court order."

* * * * *

COUNT 5

On or between August 1, 2009 and May 17, 2010, in the County of Los Angeles, the crime of ORAL COPULATION OF A PERSON UNDER 18, in violation of PENAL CODE SECTION 288a(b)(1), a Felony, was committed by FARHAD FRED HAFEZI, who did unlawfully participate in an act of oral copulation with JANE DOE, a person under the age of eighteen years.

"NOTICE: Conviction of this offense will require the court to order you to submit to a blood test for evidence of antibodies to the probable causative agent of Acquired Immune Deficiency Syndrome (AIDS). Penal Code section 1202.1."

"NOTICE: Conviction of this offense will require to register pursuant to Penal Code section 290 et seq. Willful failure to register is a crime."

"NOTICE: Being charged with this criminal offense can result in mandatory pre-conviction HIV/AIDS testing and disclosure of the results to a victim and the Chief Medical Officer of the jail or prison facility where you are incarcerated pursuant to Penal Code Section 1524.1 and Health and Safety Code section 121055 following a probable cause hearing resulting in a court order."

* * * * *

COUNT 6

On or between August 1, 2009 and May 17, 2010, in the County of Los Angeles, the crime of MEETING MINOR FOR LEWD PURPOSES, in violation of PENAL CODE SECTION 288.4(b), a Felony, was committed by FARHAD FRED HAFEZI, who did unlawfully and motivated by an unnatural and abnormal sexual interest in children, arrange a meeting with JANE DOE, a minor and a person defendant believed to be a minor, for the purpose of exposing the genitals and pubic and rectal area of JANE DOE and defendant, and to engage in lewd and lascivious behavior, and did go to the arranged meeting place at and about the arranged time.

"NOTICE: Conviction of this offense will require to register pursuant to Penal Code section 290 et seq. Willful failure to register is a crime."

* * * * *

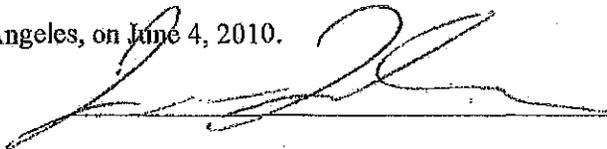
NOTICE: Conviction of this offense will require the defendant to provide DNA samples and print impressions pursuant to Penal Code sections 296 and 296.1. Willful refusal to provide the samples and impressions is a crime.

NOTICE: The People of the State of California intend to present evidence and seek jury findings regarding all applicable circumstances in aggravation, pursuant to Penal Code section 1170(b) and *Cunningham v. California* 2007 U.S. LEXIS 1324.

NOTICE: A Suspected Child Abuse Report (SCAR) may have been generated within the meaning of Penal Code §§ 11166 and 11168 involving the charges alleged in this complaint. Dissemination of a SCAR is limited by Penal Code §§ 11167 and 11167.5 and a court order is required for full disclosure of the contents of a SCAR.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT, CASE NUMBER KA090841, CONSISTS OF 6 COUNT(S).

Executed at POMONA, County of Los Angeles, on June 4, 2010.



DECLARANT AND COMPLAINANT

.....
STEVE COOLEY, DISTRICT ATTORNEY

BY:


PATRICK J. CANNON, DEPUTY

AGENCY: LASD - TEMPLE
PATROL

I/O:

ID NO.:

PHONE:

DR NO.: 910065560563339

OPERATOR: JB

PRELIM. TIME EST.:

DEFENDANT
HAFEZI, FARHAD FRED

CH NO.
004665232

DOB
9/22/1938

BOOKING
NO.
2336358

RECORDS
L.A. DISTRICT

CUSTODY
R'TN DATE
06/08/2010

2010 JUN -4 PM 12:34

RECEIVED

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

FELONY COMPLAINT -- ORDER HOLDING TO ANSWER -- P.C. SECTION 872

It appearing to me from the evidence presented that the following offense(s) has/have been committed and that there is sufficient cause to believe that the following defendant(s) guilty thereof, to wit:

(Strike out or add as applicable)

FARHAD FRED HAFEZI

<u>Count No.</u>	<u>Charge</u>	<u>Charge Range</u>	<u>Special Allegation</u>	<u>Alleg. Effect</u>
1	PC 288a(b)(1)	16-2-3		
2	PC 261.5(a), 5(c)	2-3-4		
3	PC 288a(b)(1)	16-2-3		
4	664 / PC 261.5(c)	2-3-4		
5	PC 288a(b)(1)	16-2-3		
6	PC 288.4(b)	2-3-4 Yrs.		

I order that the defendant(s) be held to answer therefore and be admitted to bail in the sum of:

FARHAD FRED HAFEZI

\$ 100,000 Dollars

and be committed to the custody of the Sheriff of Los Angeles County until such bail is given. Date of arraignment in Superior Court will be:

FARHAD FRED HAFEZI

9-20-10
9-16-10 in Dept N

at: 8:30 A.M.

Date: 9-1-10

[Signature]
Committing Magistrate

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 09/08/17

CASE NO. KA090841

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: FARHAD FRED HAFEZI

INFORMATION FILED ON 09/20/10.

COUNT 01: 288A(B)(1) PC FEL
COUNT 02: 261.5(C) PC FEL
COUNT 03: 288A(B)(1) PC FEL
COUNT 04: 664-261.5(C) PC FEL
COUNT 06: 288.4(B) PC FEL

ON 04/01/11 AT 930 AM IN EAST DISTRICT DEPT EAP

CASE CALLED FOR JURY TRIAL

PARTIES: TIA FISHER (JUDGE) MARK NATOLI (CLERK)
MARIE VILLALOVOS (REP) ADAM Y. CHANG (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY STANLEY L. FRIEDMAN PRIVATE COUNSEL

AMENDED INFORMATION FILED AND THE DEFENDANT IS ARRAIGNED.

ON PEOPLE'S MOTION, COURT ORDERS INFORMATION AMENDED BY INTERLINEATION TO ADD VIOLATION 288A(B)(1) PC FEL AS COUNT 07.

ON PEOPLE'S MOTION, COURT ORDERS INFORMATION AMENDED BY INTERLINEATION TO ADD VIOLATION 288A(B)(1) PC FEL AS COUNT 08.

ON PEOPLE'S MOTION, COURT ORDERS INFORMATION AMENDED BY INTERLINEATION TO ADD VIOLATION 288A(B)(1) PC FEL AS COUNT 09.

DEFENDANT WAIVES ARRAIGNMENT, READING OF INFORMATION/INDICTMENT, AND STATEMENT OF CONSTITUTIONAL AND STATUTORY RIGHTS.

DEFENDANT WAIVES FURTHER ARRAIGNMENT.

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 01 AND PLEADS NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION 288A(B)(1) PC IN COUNT 01. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (01) : DISPOSITION: CONVICTED

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 02 AND PLEADS NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION

PAGE NO. 1 JURY TRIAL
HEARING DATE: 04/01/11

CASE NO. KA090841
DEF NO. 01

DATE PRINTED 09/08/17

261.5(C) PC IN COUNT 02. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (02) : DISPOSITION: CONVICTED

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 03 AND PLEADS NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION 288A(B)(1) PC IN COUNT 03. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (03) : DISPOSITION: CONVICTED

DEFENDANT PLEADS NOT GUILTY TO COUNT 04, 664-261.5(C) PC.

THE DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT 06 AND PLEADS NOLO CONTENDERE WITH THE APPROVAL OF THE COURT TO A VIOLATION OF SECTION 288.4(B) PC IN COUNT 06. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (06) : DISPOSITION: CONVICTED

THE DEFENDANT WITH THE COURT'S APPROVAL, PLEADS NOLO CONTENDERE TO COUNT 07 A VIOLATION OF SECTION 288A(B)(1) PC. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (07) : DISPOSITION: CONVICTED

THE DEFENDANT WITH THE COURT'S APPROVAL, PLEADS NOLO CONTENDERE TO COUNT 08 A VIOLATION OF SECTION 288A(B)(1) PC. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (08) : DISPOSITION: CONVICTED

THE DEFENDANT WITH THE COURT'S APPROVAL, PLEADS NOLO CONTENDERE TO COUNT 09 A VIOLATION OF SECTION 288A(B)(1) PC. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (09) : DISPOSITION: CONVICTED

THE COURT ORDERS A STATIC .99 PROBATION REPORT.

COURT ORDERS AND FINDINGS:

--THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

THE CAUSE, TRANSFERRED FROM DEPARTMENT EA N, IS CALLED FOR JURY TRIAL. THE COURT AND COUNSEL CONFER INFORMALLY IN CHAMBERS.

PURSUANT TO AN ORAL MOTION OF THE PEOPLE, THE AMENDED INFORMATION FILED THIS DATE IN THIS CASE IS FURTHER AMENDED BY INTERLINEATION TO DELETE, FROM COUNTS 2,4,7,8 AND 9, THE LANGUAGE, "ON OR ABOUT AUGUST 01, 2009" AND TO INSERT IN PLACE THEREOF, "ON OR BETWEEN AUGUST 01, 2009, AND MAY 17, 2010".

PENDING MOTIONS OF THE DEFENDANT TO SET ASIDE THE INFORMATION PURSUANT TO PENAL CODE SECTION 995, TO SUPPRESS EVIDENCE, AND TO COMPEL DISCOVERY ARE PLACED OFF CALENDAR DUE TO THE CASE DISPOSITION AGREEMENT REACHED THIS DATE BETWEEN THE DEFENDANT

CASE NO. KA090841
DEF NO. 01

DATE PRINTED 09/08/17

AND THE PEOPLE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

UPON MOTION OF DEFENDANT
06/01/11 830 AM PROBATION AND SENTENCE HEARING DIST EAST DISTRICT DEPT EAP

DAY 00 OF 20

CUSTODY STATUS: BAIL TO STAND.

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 09/08/17

CASE NO. KA090841

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: FARHAD FRED HAFEZI

INFORMATION FILED ON 09/20/10.

COUNT 01: 288A(B)(1) PC FEL
COUNT 02: 261.5(C) PC FEL
COUNT 03: 288A(B)(1) PC FEL
COUNT 04: 664-261.5(C) PC FEL
COUNT 06: 288.4(B) PC FEL
COUNT 07: 288A(B)(1) PC FEL
COUNT 08: 288A(B)(1) PC FEL
COUNT 09: 288A(B)(1) PC FEL

ON 04/05/13 AT 200 PM IN EAST DISTRICT DEPT EAN

CASE CALLED FOR MOTION TO VACATE PLEA

PARTIES: TIA FISHER (JUDGE) MARK NATOLI (CLERK)
MELODY WILLIAMS (REP) ADAM Y. CHANG (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JEFFREY R. BRODEY PRIVATE
COUNSEL

THE MOTION OF THE DEFENDANT TO WITHDRAW HIS PLEAS OF NO CONTEST
ENTERED ON APRIL 01, 2011 IS ARGUED.

THE COURT ADVISES THE DEFENDANT OF HIS RIGHT TO TESTIFY ON HIS
OWN BEHALF IN THIS MATTER, AND OF HIS RIGHT TO REMAIN SILENT.

THE DEFENDANT ELECTS TO REMAIN SILENT.

THE MOTION OF THE DEFENDANT TO WITHDRAW HIS PLEAS OF NO CONTEST
IN THIS CASE IS DENIED.

THE MATTER IS SET FOR PROBATION AND SENTENCE HEARING ON
MAY 10, 2013.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

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MOTION TO VACATE PLEA
HEARING DATE: 04/05/13

CASE NO. KA090841
DEF NO. 01

DATE PRINTED 09/08/17

NEXT SCHEDULED EVENT:

UPON MOTION OF DEFENDANT
05/10/13 830 AM PROBATION AND SENTENCE HEARING DIST EAST DISTRICT DEPT EAN
DAY 00 OF 20

CUSTODY STATUS: BAIL TO STAND.

PAGE NO. 2

MOTION TO VACATE PLEA
HEARING DATE: 04/05/13

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 09/08/17

CASE NO. KA090841

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: FARHAD FRED HAFEZI

INFORMATION FILED ON 09/20/10.

COUNT 01: 288A(B)(1) PC FEL
COUNT 02: 261.5(C) PC FEL
COUNT 03: 288A(B)(1) PC FEL
COUNT 04: 664-261.5(C) PC FEL
COUNT 06: 288.4(B) PC FEL
COUNT 07: 288A(B)(1) PC FEL
COUNT 08: 288A(B)(1) PC FEL
COUNT 09: 288A(B)(1) PC FEL

ON 05/23/13 AT 900 AM IN EAST DISTRICT DEPT EAG.

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: TIA FISHER (JUDGE) ROBIN BARNHART (CLERK)
DEBRA PINEDA (REP) CASEY CONAN HIGGINS (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY JEFFREY R. BRODEY PRIVATE COUNSEL

DEFENDANT WAIVES ARRAIGNMENT FOR JUDGMENT AND STATES THERE IS NO LEGAL CAUSE WHY SENTENCE SHOULD NOT BE PRONOUNCED. THE COURT ORDERED THE FOLLOWING JUDGMENT:

AS TO COUNT (01):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON FORMAL PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

SERVE 180 DAYS IN LOS ANGELES COUNTY JAIL

DEFENDANT GIVEN TOTAL CREDIT FOR 32 DAYS IN CUSTODY 16 DAYS ACTUAL CUSTODY AND 16 DAYS GOOD TIME/WORK TIME

PLUS \$30.00 CRIMINAL CONVICTION ASSESSMENT (PURSUANT TO 70373 G.C.)

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PROBATION AND SENTENCE HEARING
HEARING DATE: 05/23/13

CASE NO. KA090841
DEF NO. 01

DATE PRINTED 09/08/17

\$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

TOTAL DUE: \$70.00

IN ADDITION:

-THE DEFENDANT IS TO PAY A RESTITUTION FINE PURSUANT TO SECTION 1202.4(B) PENAL CODE IN THE AMOUNT OF \$ 240.00.

-DEFENDANT IS ORDERED TO PAY A PROBATION REVOCATION RESTITUTION FINE PURSUANT TO PENAL CODE SECTION 1202.44, IN THE AMOUNT OF \$ 240.00. THIS FINE SHALL BECOME EFFECTIVE UPON THE REVOCATION OF PROBATION.

-DO NOT ASSOCIATE WITH/STAY AWAY FROM THE MINOR GIRLS ASSOCIATED WITH THESE CHARGES.

-COOPERATE WITH THE PROBATION OFFICER IN A PLAN FOR ENROLLMENT IN AND COMPLETION OF A 52 WEEK SEXUAL OFFENDER COUNSELING PROGRAM.

-MAINTAIN RESIDENCE AS APPROVED BY THE PROBATION OFFICER.

-DO NOT OWN, USE OR POSSESS ANY DANGEROUS OR DEADLY WEAPONS, INCLUDING ANY FIREARMS, KNIVES OR OTHER WEAPONS.

-COPY OF THE PROHIBITED PERSONS NOTICE AND POWER OF ATTORNEY FOR FIREARMS RELINQUISHMENT, SALE OR DISPOSAL FORM ISSUED TO DEFENDANT PURSUANT TO PENAL CODE SECTION 29800.

-SUBMIT PERSON AND PROPERTY TO A SEARCH AT ANY TIME OF THE DAY OR NIGHT BY ANY LAW ENFORCEMENT OFFICER OR PROBATION OFFICER

WITH OR WITHOUT A WARRANT OR PROBABLE CAUSE.

-OBEY ALL LAWS AND ORDERS OF THE COURT.

-OBEY ALL RULES AND REGULATIONS OF THE PROBATION DEPARTMENT.

-REGISTER AS A CONVICTED SEX OFFENDER, CARRY PROOF OF REGISTRATION AT ALL TIMES, DISPLAY REGISTRATION TO ANY LAW ENFORCEMENT OFFICER UPON REQUEST.

-DEFENDANT ORDERED TO SUBMIT TO AIDS TEST PER 1202.1 P.C.

-DEFENDANT TO BE TESTED WHILE IN COUNTY JAIL, RESULTS TO BE FORWARDED TO THIS COURT (PER MEDICAL ORDER SIGNED CONCURRENTLY HEREWITH).

-DO NOT USE OR THREATEN TO USE FORCE OR VIOLENCE AGAINST ANY PERSON. NOT ANNOY, HARASS, OR CONTACT ANY PERSON, VICTIM, OR

CASE NO. KA090841
DEF NO. 01

DATE PRINTED 09/08/17

WITNESS INVOLVED IN THIS CASE.

-DEFENDANT IS ORDERED TO HAVE NO UNSUPERVISED CONTACT WITH ANY MINOR CHILDREN.

COURT ORDERS AND FINDINGS:

-PURSUANT TO PC SECTION 296, THE DEFENDANT IS ORDERED TO PROVIDE BUCCAL SWAB SAMPLES, A RIGHT THUMB PRINT, A FULL PALM PRINT IMPRESSION OF EACH HAND, ANY BLOOD SPECIMENS OR OTHER BIOLOGICAL SAMPLES AS REQUIRED BY THIS SECTION FOR LAW ENFORCEMENT IDENTIFICATION.

-DEFENDANT TO REPORT TO THE PROBATION OFFICER WITHIN 48 HOURS AFTER RELEASE FROM CUSTODY TO THE POMONA AREA PROBATION DEPARTMENT AT 1660 WEST MISSION BOULEVARD, POMONA, CA 91766.

-DEFENDANT ACKNOWLEDGES TO THE COURT THAT THE DEFENDANT UNDERSTANDS AND ACCEPTS ALL THE PROBATION CONDITIONS, AND DEFENDANT AGREES TO ABIDE BY SAME.

THE MATTER IS CALLED FOR HEARING.

THE PARTIES ARGUE RE SENTENCING TO THE COURT.

THE COURT STATES THAT IT HAS READ AND CONSIDERED THE STATIC 99 PROBATION REPORT. THE 288.1 PENAL CODE REPORT AND THE PRE-PLEA REPORT DATED 7/26/10. THE PARTIES WAIVE THE PREPARATION OF A NEW PRE-PLEA REPORT.

THE COURT SENTENCES THE DEFENDANT TO 3 YEARS OF FORMAL PROBATION AND 180 DAYS IN COUNTY JAIL AS TO ALL COUNTS CONCURRENTLY.

THE DEFENDANT'S REQUEST TO SERVE THE COUNTY JAIL TIME UNDER HOUSE ARREST IS DENIED BY THE COURT.

THE DEFENDANT IS ORDERED TO PAY A \$300.00 SEXUAL HABITUAL OFFENDER FINE PURSUANT TO 290.3 PENAL CODE.

THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT IS ORDERED TO OBTAIN UP TO TWO SAMPLES OF DEFENDANT'S BLOOD OR MUCOSAL TRANSUDATE SALIVA IN A MEDICALLY APPROVED MANNER AND TEST THE SAME FOR THE PRESENCE OF THE HIV VIRUS PURSUANT TO PENAL CODE SECTION 1202.1. THE RESULTS OF THE TEST ARE TO BE MAILED UNDER SEAL TO THE LOS ANGELES SUPERIOR COURT, POMONA SOUTH COURTHOUSE, 400 CIVIC CENTER PLAZA, POMONA CA 91766, ATTN: DEPARTMENT EA-N BY 6/20/13. A MEDICAL ORDER IS FAXED TO THE SHERIFF'S DEPARTMENT THIS DATE AND IS INCLUDED WITH A COPY OF THE DEFENDANT'S CUSTODY PAPERWORK.

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DEF NO. 01

DATE PRINTED 09/08/17

COUNT (01): DISPOSITION: CONVICTED

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROBATION AND SENTENCE HEARING

AS TO COUNT (02):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON FORMAL PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

PLUS \$30.00 CRIMINAL CONVICTION ASSESSMENT (PURSUANT TO 70373 G.C.)

\$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

TOTAL DUE: \$70.00

THE TERMS AND CONDITIONS OF PROBATION FOR COUNT 2 ARE THE SAME AS THOSE IMPOSED FOR COUNT 1 AND COUNT 2 IS TO RUN CONCURRENTLY WITH COUNT 1.

COUNT (02): DISPOSITION: CONVICTED

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROBATION AND SENTENCE HEARING

AS TO COUNT (03):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON FORMAL PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

PLUS \$30.00 CRIMINAL CONVICTION ASSESSMENT (PURSUANT TO 70373 G.C.)

\$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

TOTAL DUE: \$70.00

THE TERMS OF CONDITIONS OF PROBATION FOR COUNT 3 ARE THE SAME AS THOSE IMPOSED AS TO COUNT 1 AND THEY ARE TO RUN CONCURRENTLY WITH EACH OTHER.

COUNT (03): DISPOSITION: CONVICTED

DMV ABSTRACT NOT REQUIRED

CASE NO. KA090841
DEF NO. 01

DATE PRINTED 09/08/17

NEXT SCHEDULED EVENT:
PROBATION AND SENTENCE HEARING

AS TO COUNT (06):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON FORMAL PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:
PLUS \$30.00 CRIMINAL CONVICTION ASSESSMENT (PURSUANT TO 70373 G.C.)

\$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

TOTAL DUE: \$70.00

THE TERMS AND CONDITIONS OF PROBATION FOR COUNT 6 ARE THE SAME
AS THOSE IMPOSED FOR COUNT 1 AND THEY ARE TO RUN CONCURRENTLY
WITH EACH OTHER.

COUNT (06): DISPOSITION: CONVICTED

REMAINING COUNTS DISMISSED:

COUNT (04): DISMISSED DUE TO PLEA NEGOTIATION

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROBATION AND SENTENCE HEARING

AS TO COUNT (07):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON FORMAL PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

THE TERMS AND CONDITIONS OF PROBATION FOR COUNT 7 ARE THE SAME
AS THOSE IMPOSED FOR COUNT 1 AND COUNT 7 IS TO RUN CONCURRENTLY
WITH COUNT 1.

COUNT (07): DISPOSITION: CONVICTED

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROBATION AND SENTENCE HEARING

AS TO COUNT (08):

CASE NO. KA090841
DEF NO. 01

DATE PRINTED 09/08/17

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON FORMAL PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

PLUS \$30.00 CRIMINAL CONVICTION ASSESSMENT (PURSUANT TO 70373 G.C.)

\$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

TOTAL DUE: \$70.00

THE TERMS AND CONDITIONS OF PROBATION FOR COUNT 8 ARE THE SAME AS THOSE IMPOSED FOR COUNT 1 AND COUNT 8 IS TO RUN CONCURRENTLY WITH COUNT 1.

COUNT (08): DISPOSITION: CONVICTED

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROBATION AND SENTENCE HEARING

AS TO COUNT (09):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON FORMAL PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

THE TERMS AND CONDITIONS OF PROBATION FOR COUNT 9 ARE THE SAME AS THOSE IMPOSED FOR COUNT 1 AND COUNT 9 IS TO RUN CONCURRENTLY WITH COUNT 1.

THE COURT RECEIVES A NOTICE OF APPEAL FROM COUNSEL FOR DEFENDANT. THE CERTIFICATE OF PROBABLE CAUSE ATTACHED TO THE NOTICE OF APPEAL IS READ, CONSIDERED AND GRANTED BY THE COURT. SAID CERTIFICATE IS SIGNED BY THE COURT THIS DATE. THE NOTICE OF APPEAL AND THE CERTIFICATE FOR PROBABLE CAUSE IS FORWARDED TO THE APPEAL CLERK THIS DATE.

CUSTODY STATUS: REMANDED ON PROBATION

COUNT (09): DISPOSITION: CONVICTED

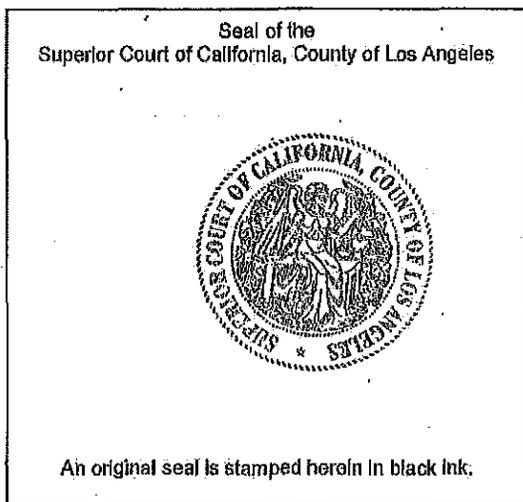
DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
06/20/13 830 AM PROOF OF HIV TESTING DIST EAST DISTRICT DEPT EAN

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

COURTHOUSE ADDRESS: POMONA COURT- 400 CIVIC CENTER PLAZA, POMONA, CA 91766	CASE NUMBER: KA090841-01
PLAINTIFF/PETITIONER: PEOPLE OF THE STATE OF CALIFORNIA	
DEFENDANT/RESPONDENT: FARHAD FRED HAFEZI	DEPARTMENT/UNIT CRIMINAL
CLERK'S CERTIFICATION OF REPRODUCED COURT RECORDS	TELEPHONE NUMBER

I, SHERRI R. CARTER, Executive Officer/Clerk of the Superior Court of California, County of Los Angeles, certify that the reproduced court records attached hereto are a true and correct copy of the original documents contained in the original file or are of record, consisting of (18) pages from this office.



SHERRI R. CARTER, Executive Officer/Clerk

Dated: 09/08/17

By: Deputy

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 25, 2013
BY: T. H. H. ANALYST

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

In the Matter of the Accusation Against:

Case No. 11-2010-207229

FRED FARHAD HAFEZI, M.D.

P.O.Box 4238
Covina, CA 91723
Physician's and Surgeon's Certificate No.
G19337

ACCUSATION

Respondent.

Complainant alleges:

PARTIES

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

2. On or about October 9, 1970, the Board issued Physician and Surgeon's Certificate Number G19337 to Fred Farhad Hafezi, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2014, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

5. Section 2234 of the Code, states:

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

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

"(b) Gross negligence.

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

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

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

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

2 (g) The practice of medicine from this state into another state or country without meeting
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
4 apply to this subdivision. This subdivision shall become operative upon the implementation of the
5 proposed registration program described in Section 2052.5.

6 (h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
7 participate in an interview scheduled by the mutual agreement of the certificate holder and the
8 board. This subdivision shall only apply to a certificate holder who is the subject of an
9 investigation by the board."

10 6. Section 2236 of the Code states:

11 A(a) The conviction of any offense substantially related to the qualifications, functions, or
12 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
13 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
14 evidence only of the fact that the conviction occurred.

15 A(b) The district attorney, city attorney, or other prosecuting agency shall notify the
16 Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or
17 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
18 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
19 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
20 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
21 a license as a physician and surgeon.

22 A(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48
23 hours after the conviction, transmit a certified copy of the record of conviction to the board. The
24 division may inquire into the circumstances surrounding the commission of a crime in order to fix
25

26 ¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008,
27 provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act means
28 the "Medical Board of California," and references to the "Division of Medical Quality" in the Act or any other
provision of law shall be deemed to refer to the Board.

1 the degree of discipline or to determine if the conviction is of an offense substantially related to
2 the qualifications, functions, or duties of a physician and surgeon.

3 A(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
4 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
5 shall be conclusive evidence of the fact that the conviction occurred.@

6 7. Section 2232 of the Code states:

7 "(a) Except as provided in subdivisions (b), (c) , and (d), the board shall promptly revoke
8 the license of any person who, at any time after January 1, 1947, has been required to register as a
9 sex offender pursuant to the provisions of Section 290 of the Penal Code.

10 "(b) This section shall not apply to a person who is required to register as a sex offender
11 pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under
12 Section 314 of the Penal Code.

13 "(c)(1) Five years after the effective date of the revocation and three years after successful
14 discharge from parole, probation, or both parole and probation if under simultaneous supervision,
15 an individual who after January 1, 1947, and prior to January 1, 2005, was subject to subdivision
16 (a), may petition the superior court, in the county in which the individual has resided for, at
17 minimum, five years prior to filing the petition, to hold a hearing within one year of the date of
18 the petition, in order for the court to determine whether the individual no longer poses a possible
19 risk to patients. The individual shall provide notice of the petition to the Attorney General and to
20 the board at the time of its filing. The Attorney General and the board may present written and
21 oral argument to the court on the merits of the petition.

22 "(2) If the court finds that the individual no longer poses a possible risk to patients, and
23 there are no other underlying reasons for which the board pursued disciplinary action, the court
24 shall order, in writing, the board to reinstate the individual's license within 180 days of the date of
25 the order. The board may issue a probationary license to a person subject to this paragraph
26 subject to terms and conditions, including, but not limited to, any of the conditions of probation
27 specified in Section 2221.
28

1 sexual offense, unlawful sexual intercourse with a person under the age of 18, all violations of the
2 Penal Code.

3 B. On April 1, 2011, Respondent did an "open plea" and pled nolo contendere to all
4 counts. Then on May 26, 2011, Respondent withdrew his plea of guilty.

5 C. On April 5, 2013, the court denied Respondent's motion to withdraw his guilty plea.
6 As a result of his plea, he now stands convicted of several counts of oral copulation and a count
7 of unlawful sexual intercourse with a person under 18.

8 D. Respondent was sentenced on May 23, 2013. Imposition of sentence was suspended,
9 and Respondent was placed on formal probation for 36 months, ordered to serve 180 days in the
10 Los Angeles County Jail and required to register as a sex offender pursuant to Penal Code section
11 290. Respondent is currently out of jail as he was given credit for time served for his county jail
12 sentence.

13 PRAYER

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

- 16 1. Revoking or suspending Physician and Surgeon's Certificate Number G19337, issued
17 to Fred Farhad Hafezi, M.D., and
18 2. Revoking, suspending or denying approval of Respondent's authority to supervise
19 physician assistants, pursuant to section 3527 of the Code, and
20 3. If placed on probation, ordering Respondent to pay the Medical Board of California
21 the costs of probation monitoring; and
22 4. Taking such other and further action as deemed necessary and proper.

23
24 June 25, 2013

25 DATED: _____


26 KIMBERLY KIRCHMEYER
27 Interim Executive Director
28 Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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

In the Matter of the Accusation Against:)
)
)
FRED FARHAD HAFEZI, M.D.)
) **Case No. 11-2010-207229**
)
) **OAH No. 2013070372**
Physician's and Surgeon's)
Certificate No. G 19337)
)
Respondent.)
_____)

DECISION

The attached Proposed Decision is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on January 17, 2014.

IT IS SO ORDERED December 19, 2013.

MEDICAL BOARD OF CALIFORNIA

By: _____

**Barbara Yaroslavsky Chair
Panel A**



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

In the Matter of the Accusation Against:

FRED FARHAD HAFEZI, M.D.,

Respondent.

Case No. 11-2010-207229

OAH No. 2013070372

PROPOSED DECISION

Administrative Law Judge Ralph B. Dash heard this matter in Los Angeles, California on October 31, 2013.

Cindy M. Lopez, Deputy Attorney General, represented Complainant.

Richard A. Moss and Mark T. Roohk, Attorneys at Law, represented Fred Farhad Hafezi (Respondent).

Oral and documentary evidence having been received and the matter having been submitted, the Administrative Law Judge makes the following Proposed Decision.

FINDINGS OF FACT

1. Kimberly Kirchmeyer made the Accusation in her official capacity as the Interim Executive Director of the Medical Board of California (Board).

2. The Board issued Physician's and Surgeon's Certificate Number G 37337 to Respondent on October 9, 1970. The license has been renewed through September 30, 2014. On August 16, 2013, pursuant to a stipulation made by the parties, the Presiding Administrative Law Judge of the Office of Administrative Hearings issued an Order which restricted Respondent's continued practice of medicine solely to completion of "reports on patients seen as workers compensation referrals who were referred to him" prior to the date of the Order. Said Order will remain in effect pending the Board issuing its Final Decision on the Accusation herein.

3. On April 1, 2011, in the Superior Court of the State of California, County of Los Angeles, case number KA090841, Respondent pled nolo contendere to five counts of violating Penal Code section 288a, subdivision (b)(1) (oral copulation with a person under 18 years of age); one count of violating Penal Code section 261.5, subdivision (c) (sexual intercourse with a minor more than three years younger than the perpetrator); and, one count of violating Penal Code section 288.4, subdivision (b)(1) (going to an arranged meeting place

for the purpose of engaging in lewd or lascivious behavior with a minor). These counts were all charged as felonies. The nolo contendere pleas were made pursuant to a Felony Advisement of Rights, Waiver, and Plea Form (Exhibit 6), which Respondent initialed in numerous places, then signed. The court found Respondent guilty and convicted him on each of the seven counts.

4. The court set a sentencing date which was postponed from time to time so that Respondent's motion to withdraw his nolo contendere pleas could be heard. The court denied the motion to withdraw the pleas on April 5, 2013. On May 23, 2013, the court suspended imposition of sentence and placed Respondent on formal probation for three years on condition that he serve 180 days in County Jail with credit for 32 days served (16 days actual service and 16 days good time/work time). The court also ordered Respondent, among other things, to complete a 52-week sexual offender counseling course, to register as a sex offender under the provisions of Penal Code section 290, and to have no unsupervised contact with any minor children. Respondent has registered as a sex offender.

5. On the same day he was sentenced, Respondent filed a Notice of Appeal of his convictions. Thereafter, he requested release on bail pending his appeal. On June 18, 2013, Respondent withdrew his bail request and made an oral motion for modification of his probation. The court granted the motion and ordered Respondent to serve 84 days in County Jail with credit for 84 days served. The court also ordered Respondent to partake in the electronic monitoring program for 90 days in lieu of 90 days in jail.

6. Not all of the facts underlying Respondent's convictions were established by direct evidence. However, Respondent testified, and his testimony, coupled with administrative hearsay,¹ as well as evidence admitted pursuant to *Lake v. Reed* (1997) 16 Cal 4th 448,² disclosed the following: On the night of May 17, 2010, Respondent received a telephone call from a woman he had been dating, a woman he had met at the Fantasy Club³ in downtown Los Angeles. The woman told him that her younger sister was hungry and asked if Respondent would feed her as neither of them had any money. Respondent agreed

¹ The term "administrative hearsay" is a shorthand reference to the provisions of Government Code section 11513, subdivision (d), to the effect that hearsay evidence that is objected to, and is not otherwise admissible, may be used to supplement or explain other evidence but may not, by itself, support a factual finding. Administrative hearsay, coupled with direct, though circumstantial, evidence, may be sufficient to support a finding. (*Komizu v. Gourley* (2002) 103 Cal.App.4th 1001.)

² This case held, in part, that the direct observations of the police officer who wrote the report, as well as statements made by a respondent to that officer, may be admitted as direct evidence.

³ This is an establishment where patrons, usually male, pay female employees to dance with them.

and met the woman and her sister "in a blind alley in East Los Angeles." Respondent testified he believed the woman when she told him her sister was 22 years old.⁴

7. Respondent drove the alleged victim to a McDonalds restaurant that was approximately 15 minutes away from where he had picked her up. After purchasing meals for each of them, Respondent drove into the parking lot of the "Top Ten Motel" which was "kitty-corner" to the restaurant. There was a police car in the parking lot of the motel and the officer observed Respondent fail to signal his turn into the parking lot. The officer saw Respondent look in his direction then saw Respondent pull into a parking stall, make a three-point turn and exit the parking lot, making two right hand turns without signaling. The officer then stopped Respondent. As noted, the officer believed the passenger to be approximately 15 to 16 years, so he detained them, questioned the alleged victim, then questioned Respondent. The alleged victim told the officer that she was 17 years old and that on more than one occasion, beginning when she was 16, Respondent had paid her \$100 to orally copulate him. Upon search after the arrest, the officer found the alleged victim to have a \$100 bill.

8. Respondent told the officer that he took the alleged victim for a meal at McDonalds then drove to the motel so that he could return a room key from earlier in the evening. He told the officer that he had rented the room earlier in the evening for two hours so he could have sex with his girlfriend, a woman who was neither the person from the Fantasy Club nor that woman's sister. Respondent testified that he had patronized this same motel on several occasions, each time renting the room for an hour so that could have a place "just to relax" if he was tired.

9. Respondent denied having sex with the minor. While testifying, Respondent made a spontaneous statement that he "had not had sex in 13 years." Respondent was unable to explain how a prescription bottle for Viagra, with Respondent's name on it, and which contained 10 Viagra pills, came to be found in Respondent's vehicle, which was searched after Respondent was arrested. Respondent also had no explanation for other items found in the car other than to state they must have been left there by other people who had driven the same car. These items included a "brown paper bag containing assorted condoms" and an "envelope containing 3 hotel room card keys." The police also found \$5,825 in cash which Respondent explained he used to help defray the travel costs of some of his patients who had to be transported to and from his office.

10. Respondent testified that he had pled nolo contendere to all of the charges referenced above because his attorney had not explained to him what the referenced code sections meant, and that he was hypoglycemic and tired at the time he signed Exhibit 6. At hearing, Respondent's counsel stated that the appeal was based, in large part, on "ineffective

⁴ The woman had also told Respondent, several months prior to the incident, that she herself was 22 years old. The arresting officer stated in his report (Exhibit 7) that this 'sister,' "appeared to be approximately 15-16 years of age."

assistance of counsel.” Since Respondent denied having sex with the alleged victim he expressed no remorse for his alleged criminal conduct.

11. Respondent is a Diplomate of the American Board of Orthopedic surgery. Until the temporary suspension of his license, his practice was mainly doing orthopedic evaluations on Worker’s Compensation cases. He is considered to be a good doctor by two character witnesses who testified on his behalf.

CONCLUSIONS OF LAW

1. Business and Professions Code section 2227, subdivision (a) provides:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code . . . may, in accordance with the provisions of this chapter: (1) Have his or her license revoked upon order of the division. (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division. (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division. (4) Be publicly reprimanded by the division. (5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

2. Business and Professions Code section 2236 provides, in relevant part:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

[¶] . . . [¶]

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

3. Business and Professions Code section 2236.1 provides for the automatic suspension of a license in the event the physician is incarcerated after being convicted of a felony. This automatic suspension is not “discipline” within the meaning of section 2227 and thus the conviction does not have to be “final” before the suspension can take effect. Actual license discipline may be imposed only when the conviction becomes final. Section 2236.1, subdivision (d)(1), provides, in pertinent part:

Discipline may be ordered in accordance with Section 2227, or the Division of Licensing may order the denial of the license when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

4. Because Respondent's convictions are on appeal (Finding 5), they are not "final" for purpose of imposition of license discipline and the cause for discipline in the Accusation which is based upon the convictions cannot be sustained.

5. Business and Professions Code section 2232, subdivision (a) states: "Except as provided in subdivisions (b), (c), and (d), the board shall promptly revoke the license of any person who, at any time after January 1, 1947, has been required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code."

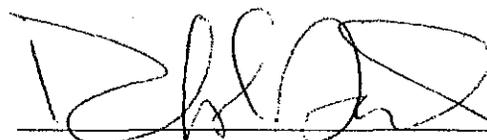
6. Respondent has been required to register and in fact has registered a sex offender pursuant to Penal Code section 290 (Finding 4.) On its face, section 2232 does not prohibit the imposition of license discipline even if the conviction for which registration was required is not final. Under standard rules of statutory construction, had the Legislature intended there be a stay of revocation pending appeal of the conviction upon which registration as a sex offender is required, it would have said so. There can be no intent in a statute not expressed in its words, and there can be no intent on the part of the framers of such a statute which does not find expression in their words. The meaning of a statute is to be sought in the language used by the Legislature. Words may not be inserted in a statute under the guise of interpretation. (*City of Sacramento v. Public Employee's Retirement System* (1994) 22 Cal. App. 4th 786.)

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Physician's and Surgeon's Certificate Number G 37337 issued to Fred Farhad Hafezi, together with all licensing rights appurtenant thereto, is revoked.

Date: 11-6-13



RALPH B. DASH
Administrative Law Judge
Office of Administrative Hearings