

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

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

Michel Francois Levesque, M.D.

**Physician's and Surgeon's
Certificate No. G 59708**

Respondent.

Case No. 800-2018-046939

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 11, 2022.

IT IS SO ORDERED February 4, 2022.

MEDICAL BOARD OF CALIFORNIA



**William Prasifka
Executive Director**

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 LYNETTE D. HECKER
Deputy Attorney General
4 State Bar No. 182198
California Department of Justice
5 2550 Mariposa Mall, Room 5090
Fresno, CA 93721
6 Telephone: (559) 705-2320
Facsimile: (559) 445-5106
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
Against:

13 **MICHEL FRANCOIS LEVESQUE, M.D.**
14 **269 South Beverly Drive, Number 320**
Beverly Hills, CA 90212

15 **Physician's and Surgeon's Certificate No. G**
16 **59708**

17 Respondent.

Case No. 800-2018-046939

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Lynette D. Hecker, Deputy
25 Attorney General.

26 2. MICHEL FRANCOIS LEVESQUE, M.D. (Respondent) is represented in this
27 proceeding by attorney Peter R. Osinoff, Esq., whose address is: 355 South Grand Avenue, Suite
28 1750, Los Angeles, CA 90071-1562.

1 allegations contained in First Amended Accusation No. 800-2018-046939 shall be deemed to be
2 true, correct and admitted by Respondent when the Board determines whether to grant or deny the
3 petition.

4 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
5 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
6 thereto, shall have the same force and effect as the originals.

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

9 **ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 59708, issued
11 to Respondent MICHEL FRANCOIS LEVESQUE, M.D., is surrendered and accepted by the
12 Board.

13 1. The surrender of Respondent's Physician's and Surgeon's Certificate No. G 59708
14 and the acceptance of the surrendered certificate by the Board shall constitute the action under
15 section 822 of the California Business and Professions Code against Respondent. This stipulation
16 constitutes a record of the action and shall become a part of Respondent's certificate history with
17 the Board.

18 2. Respondent shall lose all rights and privileges as a Physician and Surgeon in
19 California as of the effective date of the Board's Decision and Order.

20 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
21 issued, his wall certificate on or before the effective date of the Decision and Order.

22 4. If Respondent ever files an application for licensure or a petition for reinstatement in
23 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
24 comply with all the laws, regulations and procedures for reinstatement of a revoked or
25 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
26 contained in First Amended Accusation No. 800-2018-046939 shall be deemed to be true, correct
27 and admitted by Respondent when the Board determines whether to grant or deny the petition.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

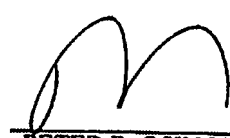
5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation, No. 800-2018-046939 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: January 17, 2022 
MICHEL FRANCOIS LEVESQUE, M.D.
Respondent

I have read and fully discussed with Respondent MICHEL FRANCOIS LEVESQUE, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 1/27/2022 
PETER R. OSINOFF, ESQ.
Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 1/27/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General



LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant

LA2021601510
95424688.docx

Exhibit A

First Amended Accusation No. 800-2018-046939

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 LYNETTE D. HECKER
Deputy Attorney General
4 State Bar No. 182198
California Department of Justice
5 2550 Mariposa Mall, Room 5090
Fresno, CA 93721
6 Telephone: (559) 705-2320
Facsimile: (559) 445-5106
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
13 Against:

14 **Michel Francois Levesque, M.D.**
15 **269 South Beverly Drive, Number 320**
Beverly Hills, CA 90212

16 **Physician's and Surgeon's Certificate**
17 **No. G 59708,**

18 Respondent.

Case No. 800-2018-046939

OAH No. 2021100810

FIRST AMENDED ACCUSATION

19
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about March 9, 1987, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 59708 to Michel Francois Levesque, M.D. (Respondent). The Physician's
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on October 31, 2022, unless renewed.

28 ///

1 **JURISDICTION**

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

5 4. Section 2227 of the Code states:

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

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

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

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

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

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

21 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
22 medical review or advisory conferences, professional competency examinations,
23 continuing education activities, and cost reimbursement associated therewith that are
24 agreed to with the board and successfully completed by the licensee, or other matters
25 made confidential or privileged by existing law, is deemed public, and shall be made
26 available to the public by the board pursuant to Section 803.1.

27 **STATUTORY PROVISIONS**

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

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

9 (d) Incompetence.

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

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

14 (g) The failure by a certificate holder, in the absence of good cause, to attend
15 and participate in an interview by the board. This subdivision shall only apply to a
16 certificate holder who is the subject of an investigation by the board.

17 6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
18 adequate and accurate records relating to the provision of services to their patients constitutes
19 unprofessional conduct.

20 7. Section 822 of the Code states:

21 If a licensing agency determines that its licentiate's ability to practice his or her
22 profession safely is impaired because the licentiate is mentally ill, or physically ill
23 affecting competency, the licensing agency may take action by any one of the
24 following methods:

25 (a) Revoking the licentiate's certificate or license.

26 (b) Suspending the licentiate's right to practice.

27 (c) Placing the licentiate on probation.

28 (d) Taking such other action in relation to the licentiate as the licensing agency
in its discretion deems proper.

The licensing section shall not reinstate a revoked or suspended certificate or
license until it has received competent evidence of the absence or control of the
condition which caused its action and until it is satisfied that with due regard for the
public health and safety the person's right to practice his or her profession may be
safely reinstated.

///

///

///

1 **COST RECOVERY**

2 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case¹, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **DEFINITIONS**

9 9. The adult spine is made up of approximately 24 bones (vertebrae) stacked on top of
10 each other from the bottom of the skull to the pelvis. Each vertebra is composed of several parts
11 that act as a whole to surround and protect the spinal cord and nerves, provide structure to the
12 body and enable fluid movement in many planes. Each vertebra has two cylinder-shaped
13 projections (pedicles) of hard bone that stick out from the back part of the vertebral body,
14 providing side protection for the spinal cord and nerves. The pedicles also serve as a bridge,
15 joining the front and back parts of the vertebra. Segments of the spine are classified as follows:
16 cervical (vertebrae C1-7) which runs from base of the skull through the neck; thoracic (vertebrae
17 T1-12) which runs from the base of the neck down the length of the rib cage; lumbar (vertebrae
18 L1-5) which runs from the base of the rib cage to the pelvis, commonly referred to as the lower
19 back; sacrum (vertebrae S1-5) which is the back part of the pelvis; and the coccyx (vertebrae C1-
20 4) commonly referred to as the tailbone.

21 10. Spinal fusion surgery is designed to stop the motion at a painful vertebral segment,
22 which in turn should decrease pain generated from the joint. Two vertebral segments of the spine
23 must be fused together to stop the motion at one segment, so that an L4-L5 (lumbar segment 4
24 and lumbar segment 5) spinal fusion is actually a one-level spinal fusion. An L4-L5, L5-S1
25 fusion is a 2-level fusion. The pedicle screw, which is sometimes used as an adjunct to spinal
26 fusion surgery, provides a means of gripping a spinal segment. The screws themselves do not

27 ¹ As of November 18, 2021, Section 125.3 of the Code has been amended to remove subsection (k), which
28 precluded the Board from collecting costs. The Board may collect investigation, prosecution, and other costs incurred
for a disciplinary proceeding against a licensee beginning January 1, 2022.

1 fixate the spinal segment, but act as firm anchor points that can then be connected with a rod.
2 The screws are placed at two or three consecutive spine segments (e.g. lumbar segment 4 and 5)
3 and then a short rod is used to connect the screws. This construct prevents motion at the
4 segments that are being fused. In a posterolateral approach, an incision is made down the middle
5 of the lower back to expose the vertebrae to be fused.

6 11. Caudal is a term from Latin (*cauda* "tail") which describes how close something is to
7 the trailing end of an organism/structure.

8 12. Dorsiflexion is the action of raising the foot upwards towards the shin. It means the
9 flexion of the foot in the dorsal, or upward, direction. People use dorsiflexion when they walk.
10 During the middle stages of weight bearing and just before pushing off the ground, the foot will
11 reach its end range of dorsiflexion.

12 13. The extensor hallucis longus muscle is one of four muscles in the anterior
13 compartment of the lower limb. The extensor hallucis longus specifically extends the hallux,
14 dorsiflexes the foot at the ankle, and inverts the foot. The extensor hallucis longus muscle is
15 susceptible to several pathologies, including nerve injury resulting in foot drop, tendonitis, tendon
16 rupture, and anterior compartment syndrome.

17 14. Foramen is a naturally occurring opening, hole, or passage, especially in a bone. In
18 the spine, the foramen is the opening for the spinal cord (vertebral foramen) and between
19 vertebrae for nerve roots to exit the spinal cord (neural foramen or neuroforamen).

20 15. Foot drop, sometimes called drop foot, is a general term for difficulty lifting the front
21 part of the foot. If someone has foot drop, the front and top of their foot might drag on the ground
22 when they walk. Foot drop is not a disease. Rather, it is a sign of an underlying neurological,
23 muscular or anatomical problem.

24 **FACTUAL ALLEGATIONS**

25 16. On or about June 11, 2014, Patient A² was seen by Respondent for consultation based
26 on a twelve-month history of lumbar spine pain with intermittent radiation to the right lower
27 extremity and left leg numbness. Conservative treatment measures had failed including

28 ² The patient's name is redacted to protect her privacy.

1 medication, physical therapy, and epidural injections. Respondent indicated that Patient A was a
2 candidate for surgical fusion at L4-5 and L5-S1 with pedicle screw instrumentation. Respondent
3 discussed the risks and benefits with Patient A. Patient A decided to proceed with the surgery.

4 17. On or about June 18, 2014, Patient A was seen at the hospital for a pre-op visit. She
5 was subsequently admitted for surgery and remained an inpatient from on or about June 26, 2014,
6 through on or about June 29, 2014.

7 18. On or about June 26, 2014, Respondent performed surgical fusion at L4-5 and L5-S1
8 with pedicle screw instrumentation on Patient A. Respondent decompressed the neural elements
9 at L4-5 and L5-S1, removed a portion of the discs at L4-5 and L5-S1, instrumented the spine with
10 cages in the disc spaces at L4-5 and L5-S1 and pedicle screws at L4-L5-S1, and fused the spine
11 both between the vertebral bodies and posterolaterally.

12 19. Post-operatively, Patient A had a new, immediate, and complete foot drop on the
13 right. On or about June 27, 2014, physical therapy noted Patient A had right dorsiflexion
14 weakness of 2-/5. On or about June 28, 2014, cardiology reported some improvement of
15 numbness and weakness of right dorsiflexion. On or about June 29, 2014, physical therapy
16 reported Patient A had slight right foot drop.

17 20. Despite seeing Patient A on additional occasions, Respondent only documented
18 seeing Patient A in the hospital chart once, on or about June 28, 2014. On or about that date,
19 Respondent noted that Patient A had improving numbness in the right foot, that Patient A's
20 sensation was intact, and noted right extensor hallicus longus weakness at 4+/5. Respondent
21 attributed this weakness to the surgical procedure and expected it to improve. Respondent did not
22 order a post-operative CT scan while Patient A was an inpatient from the surgery.

23 21. Subsequent to discharge from the hospital, Patient A was seen by Respondent in his
24 office on or about the following dates: July 14, 2014, September 7, 2014, November 5, 2014,
25 April 12, 2015, and June 24, 2015. Though Respondent ordered physical therapy for Patient A as
26 well as x-rays and electrodiagnostic studies, he did not order a post-operative CT scan for Patient
27 A while she was under his care.

28 ///

1 22. Subsequently, Patient A submitted to other physicians with complaints of continuing
2 lower extremity weakness and radiculopathy and dorsiflexion weakness/foot drop. On or about
3 May 6, 2016, Patient A had a myelogram with post-myelogram CT scan of the lumbar spine
4 which revealed that the course of the right L5 pedicle screw was extra-pedicular – it traversed
5 caudal to the pedicle and crossed the L5-S1 foramen. On or about June 28, 2016, Patient A
6 submitted to a surgery by another surgeon wherein, among other things, the right sided spinal
7 hardware was removed. Thereafter, Patient A was noted to have had significant improvement in
8 her pain and improved motor function in the right ankle and right big toe (foot drop).

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 23. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
12 the Code, in that he engaged in act(s) or omission(s) amounting to gross negligence. The
13 circumstances are set forth in paragraphs 14 through 20 above, which are incorporated here by
14 reference as if fully set forth. Additional circumstances are as follows:

15 24. The standard of care requires a physician to order indicated and necessary diagnostic
16 testing to confirm and/or reject potential etiologies for a condition. Following Respondent's
17 surgery, Patient A had a new neurological deficit: weakness of the right ankle dorsiflexion
18 strength/foot drop. Respondent attributed this to the surgical procedure. While manipulation and
19 stretching of the nerve can produce such a deficit, it departs from the standard of care to rely upon
20 the observations at surgery to assume the absence of a hardware complication. The performance
21 of a post-operative CT scan is the standard of care in this situation. While the timing of the study
22 may be dependent on the degree of the deficit and any associated symptoms, it is always
23 necessary to confirm an absence of any contribution from the hardware placed. Respondent's
24 failure to order a post-operative CT scan for Patient A based on the new neurological defect
25 following surgery constitutes gross negligence.

26 ///

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 25. Respondent is subject to disciplinary action under section 2234, subdivision (c), in
4 that he committed repeated acts of negligence in his care and treatment of Patient A. The
5 circumstances are set forth in paragraph 14 through 22 above, which are incorporated here by
6 reference as if fully set forth. Additional circumstances are as follows:

7 26. The standard of care requires that a physician produce and maintain medical records
8 of the care provided. Following Patient A's surgery, Respondent recorded only one post-
9 operative visit, on or about June 26, 2014, in the medical record though he saw and evaluated
10 Patient A on several other occasions while she remained an in-patient through on or about June
11 29, 2014. Respondent's failure to record/document every time he saw and evaluated Patient A in
12 the hospital postoperatively constitutes negligence.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Recordkeeping)**

15 27. Respondent is subject to disciplinary action under section 2266, in that he failed to
16 keep adequate and accurate records in his care and treatment of Patient A. The circumstances are
17 set forth in paragraph 14 through 24 above, which are incorporated here by reference as if fully
18 set forth.

19 **CAUSE FOR ACTION**

20 **(Physical Illness Affecting Competency)**

21 28. On or about July 17, 2021, Respondent signed a Disabled Physician Application for
22 Exemption From Payment of Renewal Fees. This application was certified under penalty of
23 perjury. Under the description of disabilities and explanation as to how the disability prevents the
24 applicant from practicing medicine safely, Respondent's physician stated:

25 [Respondent] has Parkinson's disease which causes tremors, decreased dexterity,
26 bradykinesia and gait disturbances. Parkinson's disease is progressive and there are
27 no disease modifying therapies although there are some symptomatic treatments that
28 help some. Since [Respondent] is a neurosurgeon, all of these symptoms would
interfere with his ability to operate and would endanger his patients. Parkinson's

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

disease can also reduce stamina and cause executive dysfunction which [sic] would also interfere with his ability to practice medicine.


29. Respondent's physician stated that Respondent's disability began on or about August 28, 2017, and described it as a permanent condition.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 59708, issued to Respondent Michel Francois Levesque, M.D.;
2. Revoking, suspending or denying approval of Respondent Michel Francois Levesque, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Michel Francois Levesque, M.D., to pay the Board the costs of the investigation and enforcement of this case beginning on or about January 1, 2022, and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: JAN 06 2022



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

LA2021601510
95423711.docx