

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

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

MICHAEL JASON LAMBERTE, P.T.G.L.

**Physician's and Surgeon's
Certificate No. PTGL 1217**

Respondent.

Case No. 800-2022-087404

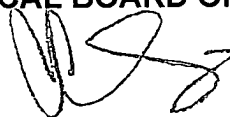
DECISION

The attached Decision 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 20, 2024.

IT IS SO ORDERED February 13, 2024.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
Deputy Attorney General
4 State Bar No. 253172
600 West Broadway, Suite 1800
5 San Diego, CA 92101
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2022-087404

14 **MICHAEL JASON LAMBERTE, P.T.G.L.**
15 **8907 Felipe Ave**
Montclair, CA 91763

OAH No. 2023080557

16 **Polysomnographic Technologist**
17 **License No. PTGL 1217**

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

18 Respondent.

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

22 **PARTIES**

23 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Rob Bonta, Attorney General of the State of California, by Jason J. Ahn, Deputy
26 Attorney General.

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1 Director and/or the Board may receive oral and written communications from its staff and/or the
2 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the
3 Executive Director, the Board, any member thereof, and/or any other person from future
4 participation in this or any other matter affecting or involving respondent. In the event that the
5 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this
6 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
7 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
8 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
9 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
10 by the Executive Director on behalf of the Board, Respondent will assert no claim that the
11 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,
12 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or
13 of any matter or matters related hereto.

14 **ADDITIONAL PROVISIONS**

15 14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
16 herein to be an integrated writing representing the complete, final and exclusive embodiment of
17 the agreements of the parties in the above-entitled matter.

18 15. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
19 Order, including copies of the signatures of the parties, may be used in lieu of original documents
20 and signatures and, further, that such copies shall have the same force and effect as originals.

21 16. In consideration of the foregoing admissions and stipulations, the parties agree the
22 Executive Director of the Board may, without further notice to or opportunity to be heard by
23 Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

24 **ORDER**

25 IT IS HEREBY ORDERED that Polysomnographic Technologist License No. PTGL 1217,
26 issued to Respondent Michael Jason Lamberte, P.T.G.L., is surrendered and accepted by the
27 Board.

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1 1. The surrender of Respondent's Polysomnographic Technologist License and the
2 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
3 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
4 of Respondent's license history with the Board.

5 2. Respondent shall lose all rights and privileges as a Polysomnographic Technologist in
6 California as of the effective date of the Board's Decision and Order.

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

9 4. If Respondent ever files an application for licensure or a petition for reinstatement in
10 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
11 comply with all the laws, regulations and procedures for reinstatement of a revoked or
12 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
13 contained in Accusation No. 800-2022-087404 shall be deemed to be true, correct and admitted
14 by Respondent when the Board determines whether to grant or deny the petition.

15 5. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$11,724.95 prior to issuance of a new or reinstated license.

17 6. If Respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation No. 800-2022-087404 shall
20 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
21 Issues or any other proceeding seeking to deny or restrict licensure.

22 7. Respondent shall pay the agency its costs of investigation and enforcement in the
23 amount of \$11,724.95 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Melissa J. DuChene, Esq. I understand the stipulation and the effect it will have on my Polysomnographic Technologist License. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and fully agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 1/10/2024

Michael Lamberte

ID: qmVgUbb66t5ELFTmYJ68cq
MICHAEL JASON LAMBERTE, P.T.G.L.
Respondent

I have read and fully discussed with Respondent Michael Jason Lamberte, P.T.G.L. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 1/10/2024

MJ DuChene

MELISSA J. DUCHENE
Attorney for Respondent

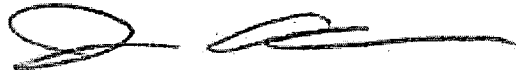
ENDORSEMENT

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: 1/10/2024

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General



JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2022-087404

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
Deputy Attorney General
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5 San Diego, CA 92101
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 800-2022-087404

14 **Michael Jason Lamberte, P.T.G.L.**
15 **8907 FELIPE AVE**
MONTCLAIR CA 91763

A C C U S A T I O N

16 **Polysomnographic Technologist License**
17 **No. PTGL 1217,**

Respondent.

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20 **PARTIES**

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

24 2. On or about July 6, 2021, the Medical Board issued Polysomnographic Technologist
25 License No. PTGL 1217 to Michael Jason Lamberte, P.T.G.L. (Respondent). The
26 Polysomnographic Technologist License was in full force and effect at all times relevant to the
27 charges brought herein and will expire on July 31, 2023, unless renewed.

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JURISDICTION

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

4. Section 2001.1 of the Code states:

Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Section 118 of the Code states:

...

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

6. Section 3575 of the Code states:

(a) For the purposes of this chapter, the following definitions shall apply:

(1) "Board" means the Medical Board of California

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1 7. Section 2227 of the Code states:

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

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

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

8 (3) Be placed on probation and required to pay the costs of probation
9 monitoring upon order of the board.

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

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

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

21 8. Section 2228 of the Code states:

22 The authority of the board or the California Board of Podiatric Medicine to
23 discipline a licensee by placing him or her on probation includes, but is not limited to,
24 the following:

25 (a) Requiring the licensee to obtain additional professional training and to pass
26 an examination upon the completion of the training. The examination may be written
27 or oral, or both, and may be a practical or clinical examination, or both, at the option
28 of the board or the administrative law judge.

 (b) Requiring the licensee to submit to a complete diagnostic examination by
 one or more physicians and surgeons appointed by the board. If an examination is
 ordered, the board shall receive and consider any other report of a complete
 diagnostic examination given by one or more physicians and surgeons of the
 licensee's choice.

 (c) Restricting or limiting the extent, scope, or type of practice of the licensee,
 including requiring notice to applicable patients that the licensee is unable to perform
 the indicated treatment, where appropriate.

 (d) Providing the option of alternative community service in cases other than
 violations relating to quality of care."

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1 11. Section 3576 of the Code states:

2 (a) A registration under this chapter may be denied, suspended, revoked,
3 placed on probation or otherwise subjected to discipline for any of the following by
4 the holder:

5 ...

6 (3) Committing any act or being convicted of a crime constituting grounds
7 for denial of licensure or registration under Section 480.

8 (4) Violating or attempting to violate this chapter or any regulation adopted
9 under this chapter.

10 (b) Proceedings under this section shall be conducted in accordance with
11 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
12 Government Code, and the board shall have all powers granted therein.

13 12. Section 3576.2 of the Code states:

14 (a) Except as provided in subdivision (b) and (c), the board shall revoke the
15 registration of any person who has been required to register as a sex offender pursuant to
16 Section 290 of the Penal Code for conduct that occurred on or after January 1, 2017.

17 "..."

18 13. Section 3576.3 of the Code states:

19 (a) The board may suspend or revoke the registration of a polysomnographic
20 technologist, polysomnographic technician, or polysomnographic trainee for
21 unprofessional conduct as described in this section.

22 (b) The use of any controlled substance or the use of any of the dangerous
23 drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a
24 manner as to be dangerous or injurious to the registrant, or to any other person or to
25 the public, or to the extent that this use impairs the ability of the registrant to
26 practice safely or more than one misdemeanor or any felony conviction involving
27 the use, consumption, or self-administration of any of the substances referred to in
28 this section, or any combination thereof, constitutes unprofessional conduct. The
record of the conviction is conclusive evidence of this unprofessional conduct.

(c) A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this section. The
board may order discipline of the registrant in accordance with Section 2227 or may
order the denial of the registration when the time for appeal has elapsed or the
judgment of conviction has been affirmed on appeal or when an order granting
probation is made suspending imposition of sentence, irrespective of a subsequent
order under the provisions of Section 1203.4 of the Penal Code allowing this person
to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
the verdict of guilty, or dismissing the accusation, complaint, information, or
indictment.

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1 **REGULATORY PROVISIONS**

2 14. California Code of Regulations, title 16, section 1379.68, subdivision (a), states:

3 For the purpose of denial, suspension, or revocation of the registration of a
4 polysomnography registrant pursuant to Division 1.5 (commencing with Section 475)
5 of the Code, a crime or act shall be considered substantially related to the
6 qualifications, functions, and duties of a polysomnographic registrant if to a
7 substantial degree it evidences present or potential unfitness of a polysomnographic
8 registrant to perform the functions authorized by his or her registration in a manner
9 consistent with the public health, safety, or welfare. Such crimes or acts shall
10 include, but not be limited to, those involving the following:

11 (a) Violating or attempting to violate, directly or indirectly, or assisting or
12 abetting the violation of or conspiring to violate any provision or term of Chapter 7.8
13 of Division 2 of the Code [concerning Polysomnographic Technologists].”

14 “...”

15 **GENERAL UNPROFESSIONAL CONDUCT**

16 15. “Unprofessional conduct is that conduct which breaches rules or ethical code
17 of profession, or conduct which is unbecoming a member in good standing of a profession.”

18 (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3rd 564, 575.)

19 **COST RECOVERY**

20 16. Section 125.3 of the Code provides, in pertinent part, that the Board may
21 request the administrative law judge to direct a licentiate found to have committed a
22 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs
23 of the investigation and enforcement of the case, with failure of the licentiate to comply
24 subjecting the license to not being renewed or reinstated. If a case settles, recovery of
25 investigation and enforcement costs may be included in a stipulated settlement.

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FIRST CAUSE FOR DISCIPLINE

**(Conviction of a Crime Substantially Related to the Qualifications, Functions or
Duties of a Polysomnographic Technologist)**

17. Respondent is subject to disciplinary action under sections 480, 490, 3576, subdivisions (3) and (4), 3576.3, subdivision (c), of the Code, and California Code of Regulations title 16, section 1379.68, subdivision (a), in that he was convicted of a crime substantially related to the qualifications, functions or duties of a polysomnographic technologist, as more particularly alleged herein:

18. On or about April 29, 2022, in the case entitled *The People of the State of California v. Michael Jasongrajo Lamberte (a.k.a. Michael Jason Lamberte)*, San Bernardino County Superior Court, Case No. FWV22001466, a felony complaint was filed charging Respondent with five (5) felony crimes: (1) Possession of Over 600 Images of Child or Youth Pornography in violation of Penal Code Section 311.11(c)(1) – date of offense March 28, 2022; (2) Possession of Sadomasochistic Child or Youth Pornography in violation of Penal Code Section 311.11(c)(2) – date of offense March 28, 2022; (3) Exhibiting, Publishing Material Depicting Child Sexual Content in violation of Penal Code Section 311.1(a) – date of offense March 7, 2022; (4) Exhibiting, Publishing Material Depicting Child Sexual Content in violation of Penal Code Section 311.1(a) – date of offense March 21, 2022; (5) Exhibiting, Publishing Material Depicting Child Sexual Content in violation of Penal Code Section 311.1(a) – date of offense March 22, 2022.

19. On or about December 14, 2022, in the case entitled *The People of the State of California v. Michael Jasongrajo Lamberte (a.k.a. Michael Jason Lamberte)*, San Bernardino County Superior Court, Case No. FWV22001466, Respondent entered a plea of no contest to count 1 of the felony complaint: Possession of Over 600 Images of Child or Youth Pornography in violation of Penal Code Section 311.11(c)(1), a felony.

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1 20. On or about January 25, 2023, in the case entitled *The People of the State of*
2 *California v. Michael Jasongrajo Lamberte (a.k.a. Michael Jason Lamberte)*, San Bernardino
3 County Superior Court, Case No. FWV22001466, Respondent was sentenced to, among other
4 things, 365 days' custody [stayed pending surrender on February 27, 2023] two (2) years' formal
5 probation with various terms and conditions, including registration as a sex offender under Penal
6 Code Section 290.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Mandatory Revocation of License for Sex Offender Registrant)**

9 21. Respondent is also subject to disciplinary action under section 3576, subdivision (3)
10 and (4), and section 3576.2, subdivision (a), of the Code, in that he was required to register as a
11 sex offender, pursuant to Section 290 of the California Penal Code, as more particularly alleged in
12 paragraphs 16 through 20, above, which are hereby incorporated by reference and realleged as if
13 fully set forth herein.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(General Unprofessional Conduct)**

16 22. Respondent is also subject to disciplinary action under section 3576, subdivision (3)
17 and (4), and section 3576.3, subdivision (C), of the Code, and California Code of Regulations,
18 title 16 section 1379.68, subdivision (a), in that he engaged in conduct which breached the rules
19 or ethical code of polysomnographic technologist profession, and which demonstrates an
20 unfitness to practice medicine, as more particularly alleged in paragraphs 16 through 21, above,
21 which are hereby incorporated by reference and realleged as if fully set forth herein.

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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 Polysomnographic Technologist License No. PTGL 1217, issued to Michael Jason Lamberte, P.T.G.L.;

2. Revoking, suspending or denying approval of Michael Jason Lamberte, P.T.G.L.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Michael Jason Lamberte, P.T.G.L., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: **JUL 24 2023**


REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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