

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

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

John Frank Bennetts, M.D.

**Physician's and Surgeon's
Certificate No. A 31528**

Respondent.

Case No. 800-2020-067632

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 March 14, 2024.

IT IS SO ORDERED March 07, 2024.

MEDICAL BOARD OF CALIFORNIA



Reji Varghese, Executive Director

1 ROB BONTA
Attorney General of California
2 MICHAEL C. BRUMMEL
Supervising Deputy Attorney General
3 JANNSEN TAN
Deputy Attorney General
4 State Bar No. 237826
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 800-2020-067632

13 **JOHN FRANK BENNETTS, M.D.**
14 **484 Washington #241**
Monterey, CA 93940

OAH No. 2023080178

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **PO Box 1769**
16 **Monterey CA 93942**

17 **Physician's and Surgeon's Certificate No. A**
18 **31528**

19 Respondent.

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 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 Jannsen Tan, Deputy
26 Attorney General.
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2. John Frank Bennetts, M.D. (Respondent) is represented in this proceeding by attorney Gary Wittenberg, Esq., whose address is: Baranov & Wittenberg, LLP, 1901 Avenue of the Stars, Suite 1750 Los Angeles, CA 90067.

3. On or about September 1, 1977, the Board issued Physician's and Surgeon's Certificate No. A 31528 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2020-067632 and will expire on October 31, 2025, unless renewed.

JURISDICTION

4. Accusation No. 800-2020-067632 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 24, 2022. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2020-067632 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2020-067632. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 **CULPABILITY**

2 8. Respondent understands that the charges and allegations in Accusation No. 800-2020-
3 067632, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
4 Surgeon's Certificate.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation and that those charges constitute cause for discipline.
8 Respondent hereby gives up his right to contest that cause for discipline exists based on those
9 charges.

10 10. Respondent understands that by signing this stipulation he enables the Board to issue
11 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
12 process.

13 **CONTINGENCY**

14 11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
15 part, that the Medical Board "shall delegate to its executive director the authority to adopt a
16 stipulation for surrender of a license."

17 12. Respondent understands that, by signing this stipulation, he enables the Executive
18 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his
19 Physician's and Surgeon's Certificate No. A 31528 without further notice to, or opportunity to be
20 heard by, Respondent.

21 13. This Stipulated Surrender of License and Disciplinary Order shall be subject to the
22 approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated
23 Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his
24 consideration in the above-entitled matter and, further, that the Executive Director shall have a
25 reasonable period of time in which to consider and act on this Stipulated Surrender of License and
26 Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands
27 and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the
28 time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

14. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

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

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

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

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 31528, issued to Respondent John Frank Bennetts, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2020-067632 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

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 Accusation No. 800-2020-067632 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.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$28,061.25 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 Gary Wittenberg, Esq., 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: 2/9/2024


JOHN FRANK BENNETTS, M.D.
Respondent

I have read and fully discussed with Respondent John Frank Bennetts, 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: 2/9/24


GARY WITTENBERG, ESQ.
BARANOV & WITTENBERG, LLP
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: 2/14/2024

Respectfully submitted,

ROB BONTA
Attorney General of California
MICHAEL C. BRUMMEL
Supervising Deputy Attorney General


JANNSEN TAN
Deputy Attorney General
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 800-2020-067632

13 **John Frank Bennetts, M.D.**
14 **PO Box 1769**
Monterey, CA 93942

A C C U S A T I O N

15
16 **Physician's and Surgeon's Certificate**
No. A 31528,

17 Respondent.
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20 **PARTIES**

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

24 2. On or about September 1, 1977, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 31528 to John Frank Bennetts, M.D. (Respondent). The Physician's and
26 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, 2023, unless renewed.
28

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 2234 of the Code, states, in pertinent part:

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:

... (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.

5. Section 822 of the Code states:

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

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

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

(c) Placing the licentiate on probation.

(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.

6. Section 2266 of the Code provides that the failure to maintain adequate and accurate records is unprofessional conduct.

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts/Incompetence)

8. Respondent John Frank Bennetts, M.D. is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2234(d) in that Respondent engaged in unprofessional conduct and/or was grossly negligent and/or committed repeated acts of negligence and/or was incompetent in his care and treatment of Patient 1. The circumstances are as follows:

9. Patient 1 was a long-term patient of Respondent, having come under his care and treatment in approximately 1991. Patient 1 terminated care with Respondent in February 2020, when she was 68 years old. Patient 1 filed a complaint with the Board in which she complained that Respondent had mismanaged her care, had failed to diagnose hyperthyroid disease and had failed to respond to her concerns about anxiety, insomnia, urinary frequency, hypertension and weight loss, especially after these complaints increased in severity in early 2020.

10. At all relevant times, Patient 1 had multiple medical conditions, including low back pain (for which she underwent a posterior T12 to S1 fusion), depression and hypothyroidism (inadequate production of thyroxine by her thyroid gland) for which she sought treatment from Respondent and other care providers.

11. Patient 1's chronic pain, which was the result of her spinal problem as well as other conditions, was treated by Respondent with several modalities over time, including NSAID medications, opioids, physical therapy, anti-neuropathic pain agents and consultation from

1 multiple specialists. Of significance to the issues identified in Respondent's care of her, in 2019
2 Patient 1 was being switched from oxycodone, an opioid, to suboxone, an opioid used in
3 addiction treatment and opioid replacement therapy. Starting in November 2019, she was also
4 being tapered off of her dosage of Lyrica, a nerve pain medication. Patient 1 reported chest pain,
5 as well as worsening of her chronic insomnia, depression and weight loss during this time.
6 Respondent concluded that she was experiencing anxiety and panic attacks as a result of her
7 medication changes.

8 12. As stated above, Respondent treated Patient 1 for hypothyroidism and he provided
9 Patient 1 with prescriptions for levothyroxine (LT4), a replacement therapy for thyroid hormone
10 deficiency. Respondent's records, which are handwritten and largely illegible, indicate that he
11 prescribed a constant dosage of 125 mcg from as early as 2011. LT4 functions the same as
12 thyroxine normally produced by the thyroid gland and in the correct dose will maintain the
13 thyroid stimulating hormone (TSH) produced by the pituitary gland in a normal range. For this
14 reason, TSH levels must be monitored and the dosage of LT4 adjusted to prevent the patient from
15 developing iatrogenic, or doctor-induced, hyperthyroidism, which may result in insomnia,
16 anxiety, fatigue and weight loss.

17 13. Respondent ordered lab tests while he maintained Patient 1 on the same dosage of
18 125 mcg, however, when Patient 1's TSH was measured as extremely low or even undetectable
19 on multiple occasions he failed to reduce the amount of LT4 prescribed. Patient 1's insomnia,
20 anxiety and weight loss (more than 10 lbs in 2019-2020) may have been caused or exacerbated by
21 Respondent's excessive prescribing of thyroid replacement medication. Patient 1 went to the local
22 emergency room several times in January and February 2020 due to the symptoms that
23 Respondent was unable to resolve. Ultimately she was diagnosed with hyperthyroidism and the
24 dosage of LT4 that Respondent had maintained her on for many years was cut by half.

25 14. Respondent's records, to the extent that they are legible, provide no evidence that he
26 considered the patient might be suffering from hyperthyroidism or that he should reduce the
27 dosage of LT4. There is nothing to suggest that he considered that iatrogenic hyperthyroidism
28 was the cause of Patient 1's symptoms in 2019-2020, or that he ever considered hyperthyroidism

1 might be interfering with her treatment for osteoporosis. At his interview with the Board,
2 Respondent acknowledged that the patient's LT4 dosage had been reduced by another physician,
3 but stated that he still believed her symptoms stemmed from anxiety related to opioid withdrawal.

4 15. Respondent's repeated failure to adjust the patient's thyroid medication in response to
5 repeated low TSH readings and symptoms consistent with iatrogenic hyperthyroidism likely
6 caused the patient harm by exacerbating her insomnia, anxiety and contributing to her weight loss
7 and osteoporosis.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Inadequate Records)**

10 16. Respondent John Frank Bennetts, M.D. is subject to disciplinary action under section
11 2234 and/or 2266 in that Respondent failed to keep adequate records of Patient 1's care.

12 17. As set forth in the First Cause for Discipline, albeit Respondent kept detailed records,
13 they are largely illegible. The standard of practice requires that a medical record be accessible to
14 other physicians involved in the patient's care in determining what conditions are under
15 treatment, how those conditions were diagnosed, what are the specific patient-centered markers of
16 those conditions, and what is being done to evaluate and manage those conditions. Respondent's
17 records are not legible and render it difficult to determine precisely which medications were used
18 and when, and what response was made to abnormal laboratory tests, particularly abnormal TSH
19 levels.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Mental Impairment)**

22 18. Respondent John Frank Bennetts, M.D. is subject to disciplinary action under section
23 822 of the Code in that Respondent is impaired in his ability to practice medicine safely by a
24 mental illness or physical illness affecting competency.

25 19. On May 19, 2021, Respondent signed a voluntary agreement to undergo a mental
26 evaluation and that evaluation was conducted over several days in August-September, 2021. After
27 completion of the evaluation, the evaluator reported to the Board that Respondent's diagnosis is
28 Mild Neurocognitive Disorder. The evaluator concluded that Respondent has age-related memory

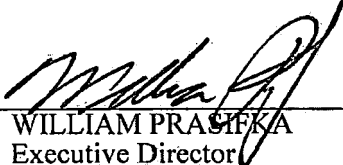
1 challenges that, in addition to his slow processing speed, are likely to adversely affect his patient
2 care without treatment and changes in his medical practice.

3 **PRAYER**

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 31528,
7 issued to John Frank Bennetts, M.D.;
- 8 2. Revoking, suspending or denying approval of John Frank Bennetts, M.D.'s authority
9 to supervise physician assistants and advanced practice nurses;
- 10 3. Ordering John Frank Bennetts, M.D., to pay the Board the costs of the investigation
11 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
- 12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: MAR 24 2022



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

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