

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

In the Matter of the Accusation Against:

Abraham David Lerner, M.D.

**Physician's and Surgeon's
Certificate No. A 39649**

Respondent.

Case No. 800-2021-076409

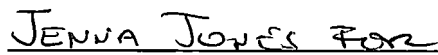
DECISION

The attached Stipulated Surrender of License and Disciplinary 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 May 2, 2024.

IT IS SO ORDERED April 25, 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 AARON L. LENT
Deputy Attorney General
4 State Bar No. 256857
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2021-076409

14 **ABRAHAM DAVID LERNER, M.D.**
15 **3812 Dotty Street**
Carmichael, CA 95608

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. A 39649**

18 Respondent.

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

21 **PARTIES**

22 1. Reji Varghese (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 Aaron L. Lent, Deputy
25 Attorney General.

26 2. Abraham David Lerner, M.D. (Respondent) is represented in this proceeding by
27 attorney Dominique A. Pollara, whose address is: Pollara Law Group, 100 Howe Avenue, Suite
28 165N, Sacramento, CA 95825.

3. On or about March 28, 1983, the Board issued Physician's and Surgeon's Certificate No. A 39649 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-076409 and will expire on October 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-076409 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 8, 2024. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2021-076409 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. 800-2021-076409. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary 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.

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2021-076409, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2021-076409 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2021-076409 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

14. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Physician's and Surgeon's Certificate No. A 39649 without further notice to, or opportunity to be heard by, Respondent.

15. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a

1 reasonable period of time in which to consider and act on this Stipulated Surrender of License and
2 Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands
3 and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the
4 time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

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

23 ADDITIONAL PROVISIONS

24 17. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
25 herein to be an integrated writing representing the complete, final and exclusive embodiment of
26 the agreements of the parties in the above-entitled matter.
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18. 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.

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

20. 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 39649, issued to Respondent Abraham David Lerner, 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 Disciplinary 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. 800-2021-076409 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$35,391.75 prior to issuance of a new or reinstated license.

1 6. If Respondent should ever apply or reapply for a new license or certification, or
2 petition for reinstatement of a license, by any other health care licensing agency in the State of
3 California, all of the charges and allegations contained in Accusation No. 800-2021-076409 shall
4 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
5 Issues or any other proceeding seeking to deny or restrict licensure.

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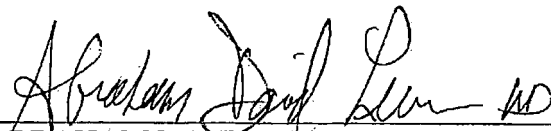
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney Dominique A. Pollara. 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 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

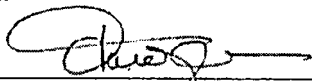
3/11/2024


ABRAHAM DAVID LERNER, M.D.
Respondent

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

DATED:

March 11, 2024


Dominique A. Pollara
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:

March 12, 2024

Respectfully submitted,

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


AARON L. LENT
Deputy Attorney General
Attorneys for Complainant

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Lerner -Stip Surr2.docx

Exhibit A

Accusation No. 800-2021-076409

1 ROB BONTA
Attorney General of California
2 MICHAEL C. BRUMMEL
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3 AARON L. LENT
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15 **3812 Dotty Street**
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A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 39649,**

Respondent.

18
19 **PARTIES**

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

23 2. On or about March 28, 1983, the Medical Board issued Physician's and Surgeon's
24 Certificate No. A 39649 to Abraham David Lerner, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2024, unless renewed.

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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 118, subdivision (b), of the Code provides that the suspension/expiration/
6 surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to
7 proceed with a disciplinary action during the period within which the license may be renewed,
8 restored, reissued or reinstated.

9 **STATUTORY PROVISIONS**

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

14 6. Section 2234 of the Code, states:

15 The board shall take action against any licensee who is charged with
16 unprofessional conduct.¹ In addition to other provisions of this article, unprofessional
conduct includes, but is not limited to, the following:

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

19 (b) Gross negligence.

20 (c) Repeated negligent acts. To be repeated, there must be two or more
21 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.

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

24 (2) When the standard of care requires a change in the diagnosis, act, or
25 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

26 ¹ Unprofessional conduct under California Business and Professions Code section 2234 is
27 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
28 unbecoming to a member in good standing of the medical profession, and which demonstrates an
unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
575.)

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 that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

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

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.

FACTUAL ALLEGATIONS

8. Respondent is a licensed physician and surgeon, Board Certified by the American Board of Obstetrics and Gynecology, who at all times relevant to the allegations worked at Mercy San Juan Medical Center (Mercy) located within Carmichael, California.

9. Registered Nurse 1² is a licensed registered nurse, who at all times relevant to the allegations worked with Respondent at Mercy in the Labor and Delivery Department.

10. On or about February 9, 2021, Respondent engaged in inappropriate physical conduct against Registered Nurse 1 while working at Mercy, without her consent or permission.

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² To protect the privacy of the witnesses involved, the witnesses' names were not included in this pleading. Respondent is aware of the identity of each witness. All witnesses will be fully identified in discovery.

1 **CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 11. Respondent Abraham David Lerner, M.D. has subjected his Physician's and
4 Surgeon's Certificate No. A 39649 to disciplinary action under sections 2227 and 2234, as
5 defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules
6 or ethical code of the medical profession, or conduct which is unbecoming of a member in good
7 standing of the medical profession, and which demonstrates an unfitness to practice medicine.

8 12. The circumstances are set forth in paragraphs 8 through 10, and those paragraphs are
9 incorporated by reference and re-alleged as if fully set forth herein.

10 13. Respondent's inappropriate physical touching of Registered Nurse 1 constituted
11 unprofessional conduct and a violation of professional boundaries.

12 **PRAYER**

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

15 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 39649, issued
16 to Respondent Abraham David Lerner, M.D.;

17 2. Revoking, suspending or denying approval of Respondent Abraham David Lerner,
18 M.D.'s authority to supervise physician assistants and advanced practice nurses;

19 3. Ordering Respondent Abraham David Lerner, M.D., to pay the Board the costs of the
20 investigation and enforcement of this case, and if placed on probation, the costs of probation
21 monitoring; and

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

23
24 DATED: 3/8/2024

25 
26 REJI VARGHESE
27 Executive Director
28 Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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