

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

In the Matter of the Accusation
Against:

Bryan Chan Waiss, M.D.

Physician's and Surgeon's
Certificate No. G 70367

Respondent.

Case No. 800-2021-078347

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 December 2,
2024. IT IS SO ORDERED November 25, 2024.

MEDICAL BOARD OF CALIFORNIA



Reji Varghese
Executive Director

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 GIOVANNI F. MEJIA
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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. 800-2021-078347

14 **BRYAN CHAN WAISS, M.D.**
1948 Nicosia Ct.
15 Pleasanton, CA 94566

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 Physician's and Surgeon's Certificate
No. G 70367

17
18 Respondent.

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. 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 Giovanni F. Mejia, Deputy
25 Attorney General.

26 2. BRYAN CHAN WAISS, M.D. (Respondent) is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about November 26, 1990, the Board issued Physician's and Surgeon's Certificate No. G 70367 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-078347 and will expire on April 30, 2026, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-078347 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 May 23, 2024. Respondent filed a Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2021-078347 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2021-078347. Respondent also has carefully read, 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 be represented by counsel, at his own expense; 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 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. 800-2021-078347, a copy of which is attached hereto as Exhibit A, and that he

1 has thereby subjected his Physician's and Surgeon's Certificate No. G 70367 to disciplinary
2 action.

3 9. Respondent understands that by signing this stipulation he enables the Board, or its
4 Executive Director on the Board's behalf, to issue an order accepting the surrender of his
5 Physician's and Surgeon's Certificate without further process.

6 10. Respondent agrees and understands that if he ever petitions for reinstatement of his
7 Physician's and Surgeon's Certificate No. G 70367, or if an accusation or petition to revoke
8 probation is ever filed against him before the Board, all of the charges and allegations contained
9 in Accusation No. 800-2021-078347 shall be deemed true, correct, and admitted by Respondent
10 for the purposes of any such proceeding or any licensing proceeding involving Respondent in the
11 State of California.

12 CONTINGENCY

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

16 12. Respondent understands that, by signing this stipulation, he enables the Executive
17 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his
18 Physician's and Surgeon's Certificate No. G 70367 without further notice to, or opportunity to be
19 heard by, Respondent.

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

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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. G 70367, issued to Respondent BRYAN CHAN WAISS, 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. 800-2021-078347 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 \$28,338.25 prior to issuance of a new or reinstated license.

6. 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. 800-2021-078347 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.

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1 ACCEPTANCE

2 I have carefully read the Stipulated Surrender of License and Order. I understand the
3 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
4 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
5 agree to be bound by the Decision and Order of the Medical Board of California.

6
7 DATED:

10/23/24


BRYAN CHAN WAISS, M.D.

Respondent

9 ENDORSEMENT

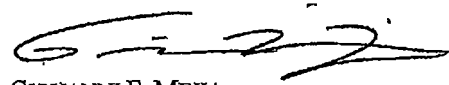
10 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
11 for consideration by the Medical Board of California of the Department of Consumer Affairs.

12 DATED:

11/6/24

Respectfully submitted,

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

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17 GIOVANNI F. MEJIA
18 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2021-078347

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8 *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. 800-2021-078347

14 BRYAN CHAN WAISS, M.D.
15 1948 Nicosia Ct.
Pleasanton, CA 94566-3608

ACCUSATION

16 Physician's and Surgeon's Certificate
17 No. G 70367,

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
22 Affairs (Board).

23 2. On or about November 26, 1990, the Medical Board issued Physician's and
24 Surgeon's Certificate No. G 70367 to Bryan Chan Waiss, M.D. (Respondent). The Physician's
25 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on April 30, 2026, 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 2227, subdivision (a) of the Code states:

A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or 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:

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

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

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

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

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

5. 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:

(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.

...

(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.

6. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

7. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may 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.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any

1 licensee who demonstrates financial hardship and who enters into a formal agreement
2 with the board to reimburse the board within that one-year period for the unpaid
costs.

3 (h) All costs recovered under this section shall be considered a reimbursement
4 for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

5 (i) Nothing in this section shall preclude a board from including the recovery of
6 the costs of investigation and enforcement of a case in any stipulated settlement.

7 (j) This section does not apply to any board if a specific statutory provision in
8 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

9 FIRST CAUSE FOR DISCIPLINE

10 (Repeated Negligent Acts)

11 8. Respondent Bryan Chan Weiss, M.D. has subjected his Physician's and Surgeon's
12 Certificate No. G 70367 to disciplinary action under sections 2227 and 2234, subdivision (c) of
13 the Code, in that Respondent committed repeated negligent acts. The circumstances are as
14 follows:

15 Patient A

16 9. On or about November 19, 2018, Patient A,¹ at the time an approximately 59-year-old
17 female, presented to Respondent for a routine well woman exam.

18 10. On or about November 19, 2018, Respondent performed a Pap smear with human-
19 papilloma virus (HPV) testing as part of Patient A's well woman exam. The tests subsequently
20 yielded results of atypical squamous cells of undetermined significance (ASCUS) and positive
21 for HPV.

22 11. On or about January 1, 2019, Patient A presented to Respondent for follow-up
23 treatment. During this office visit, Respondent performed a colposcopy, noted findings consistent
24 with low-grade cervical intraepithelial neoplasia (CIN 1), and performed a loop electrosurgical
25 excisional procedure (LEEP).

26
27 ¹ Pseudonyms are used for any patient referenced in the instant Accusation to safeguard
28 patient privacy. To the extent identifying information for any such patient is in Complainant's
custody and control, it will be disclosed to Respondent following receipt of a duly issued request
for discovery pursuant to Government Code section 11507.6.

12. Respondent committed negligence in the course of his care and treatment of Patient A by performing a LEEP on or about January 1, 2019, with only a documented colposcopy finding of a low-grade, CIN I lesion.

Patient B

13. On or about January 15, 2019, Patient B, at the time an approximately 47-year-old female, presented to Respondent with a complaint of vaginal bleeding with intercourse.

14. On or about January 15, 2019, Respondent ordered a liquid-based Pap smear with HPV testing as part of his workup of Patient B. The tests subsequently yielded results of ASCUS and positive for HPV.

15. On or about March 6, 2019, Patient B presented to Respondent for follow-up treatment. During this office visit with Patient B, Respondent performed a colposcopy, noted colposcopy findings consistent with a low-grade, CIN I lesion, and performed a LEEP.

16. On or about March 22, 2019, Patient B phoned Respondent's clinic, reporting heavy vaginal bleeding. As Patient B was out of town, she was advised to present to the nearest hospital emergency room.

17. Respondent committed negligence in the course of his care and treatment of Patient B by performing a LEEP on or about March 6, 2019, with only a documented colposcopy finding of a low-grade, CIN I lesion.

Patient C

18. On or about December 14, 2017, Patient C presented to the labor and delivery suite at the healthcare facility where Respondent was working. Patient C had a medical history significant for a previous cesarean section, and she desired and consented to a trial of labor after cesarean (TOLAC).

19. Patient C progressed in labor to 5 cm dilation and was noted to have a face presentation by a certified nurse midwife (CNM), who requested a consultation from Respondent regarding mode of delivery.

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20. Respondent examined the patient and documented, in a progress note dated December 14, 2017:

[Patient] seen and examined
For [TOLAC]
Now 5 cm and face presentation, left mentum anterior
Cat[egory] 2 tracing with repetitive va[r]iables, occ[upies] late
Amniofusion started
Given position and cat[egory] 2 tracing advised [patient] that repeat [cesarean section] is a good option
[Patient] strongly desires [TOLAC] and wants to try to avoid [cesarean section] at almost all costs
will redose epidural and attempt to internally rotate baby to more favorable position
[Patient] agrees

(Bolding added.)

21. In an interview with a Board investigator and medical consultant on or about March 9, 2023, Respondent stated that he did not actually internally rotate Patient C's baby, or attempt to internally rotate the baby, as documented in his progress note dated December 14, 2017.

22. During or shortly following Respondent's examination of Patient C on December 14, 2017, the baby had a prolonged fetal heart rate deceleration, and Patient C was taken to the operating room for a repeat cesarean section. A live infant was delivered in good condition.

23. Respondent committed negligence in the course of his care and treatment of Patient C by inaccurately documenting his medical care and treatment of the patient.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

24. Respondent Bryan Chan Waiss, M.D. has further subjected his Physician's and Surgeon's Certificate No. G 70367 to disciplinary action under sections 2227, 2234 and 2266 of the Code, in that Respondent failed to maintain adequate records relating to the provision of services to a patient as more particularly alleged in paragraphs 18 through 23, above, 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 Physician's and Surgeon's Certificate No. G 70367, issued to Respondent Bryan Chan Waiss, M.D.;
2. Revoking, suspending or denying approval of Respondent Bryan Chan Waiss, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Bryan Chan Waiss, M.D., 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: MAY 23 2024


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

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