

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

In the Matter of the Accusation
Against:

Robert Brian Pendleton, M.D.

Physician's and Surgeon's
Certificate No. G 83487

Respondent.

Case No. 800-2022-085614

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 February 27, 2025. IT IS SO ORDERED February 20, 2025.

MEDICAL BOARD OF CALIFORNIA



Reji Varghese
Executive Director

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 ROBERT W. LINCOLN
Deputy Attorney General
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 800-2022-085614

14 **ROBERT BRIAN PENDLETON, M.D.**
15 **3637 Vista Way**
Oceanside, CA 92056-4522

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**

17 **No. G 83487**

18 Respondent.
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21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

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

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2. ROBERT BRIAN PENDLETON, M.D. (Respondent) is represented in this matter by Mark Guterman, Esq., 701 N. Brand Blvd, Suite 600, Glendale, CA 91203.

3. On or about December 4, 1996, the Board issued Physician's and Surgeon's Certificate No. G 83487 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2022-085614 and will expire on December 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2022-085614 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 February 16, 2024. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2022-085614 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. 800-2022-085614. 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.

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1 **CULPABILITY**

2 8. Respondent understands that the charges and allegations in Accusation No. 800-2022-
3 085614, 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 **RESERVATION**

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

18 **CONTINGENCY**

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

22 13. Respondent understands that, by signing this stipulation, he enables the Executive
23 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his
24 Physician's and Surgeon's Certificate No. G 83487 without further notice to, or opportunity to be
25 heard by, Respondent.

26 14. This Stipulated Surrender of License and Disciplinary Order shall be subject to the
27 approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated
28 Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his

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

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

24 **ADDITIONAL PROVISIONS**

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

18. 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 83487, issued to Respondent ROBERT BRIAN PENDLETON, 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. 800-2022-085614 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

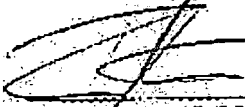
5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2022-085614 shall be deemed to be true, 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 \$39,125.55 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. 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: 1/30/2025


ROBERT BRIAN PENDLETON, M.D.

Respondent

DATED: 1/30/25


MARK GUTERMAN, ESQ.

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: 01/30/2025

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

/s. Robert W. Lincoln

ROBERT W. LINCOLN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2022-085614

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13 In the Matter of the Accusation Against:

Case No. 800-2022-085614

14 **Robert Brian Pendleton, M.D.**
15 **3637 Vista Way**
Oceanside, CA 92056

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G 83487,**

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 December 4, 1996, the Medical Board issued Physician's and Surgeon's
25 Certificate No. G 83487 to Robert Brian Pendleton, 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 December 31, 2024, 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 2227 of the Code states:

(a) 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.

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

5. Section 2228.1 of the Code states, in pertinent part:

(a) On and after July 1, 2019, except as otherwise provided in subdivision (c), the board shall require a licensee to provide a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information Internet Web site, to a patient or the patient's guardian or health care surrogate before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2019, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

1 (A) The commission of any act of sexual abuse, misconduct, or relations with a
2 patient or client as defined in Section 726 or 729.

3 (...)

4 (2) An accusation or statement of issues alleged that the licensee committed any of
5 the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a
6 stipulated settlement based upon a nolo contendere or other similar compromise that
7 does not include any prima facie showing or admission of guilt or fact but does
8 include an express acknowledgment that the disclosure requirements of this section
9 would serve to protect the public interest.

10 (b) A licensee required to provide a disclosure pursuant to subdivision (a) shall
11 obtain from the patient, or the patient's guardian or health care surrogate, a separate,
12 signed copy of that disclosure.

13 (c) A licensee shall not be required to provide a disclosure pursuant to subdivision
14 (a) if any of the following applies:

15 (1) The patient is unconscious or otherwise unable to comprehend the disclosure and
16 sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health
17 care surrogate is unavailable to comprehend the disclosure and sign the copy.

18 (2) The visit occurs in an emergency room or an urgent care facility or the visit is
19 unscheduled, including consultations in inpatient facilities.

20 (3) The licensee who will be treating the patient during the visit is not known to the
21 patient until immediately prior to the start of the visit.

22 (4) The licensee does not have a direct treatment relationship with the patient.

23 (d) On and after July 1, 2019, the board shall provide the following information,
24 with respect to licensees on probation and licensees practicing under probationary
25 licenses, in plain view on the licensee's profile page on the board's online license
26 information Internet Web site.

27 (1) For probation imposed pursuant to a stipulated settlement, the causes alleged in
28 the operative accusation along with a designation identifying those causes by which
the licensee has expressly admitted guilt and a statement that acceptance of the
settlement is not an admission of guilt.

(2) For probation imposed by an adjudicated decision of the board, the causes for
probation stated in the final probationary order.

(3) For a licensee granted a probationary license, the causes by which the
probationary license was imposed.

(4) The length of the probation and end date.

(5) All practice restrictions placed on the license by the board.

(e) Section 2314 shall not apply to this section.

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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.

(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.

...

8. Section 726 of the Code states:

(b) This section shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic relationship when that licensee provides medical treatment, to his or her spouse or person in an equivalent domestic relationship.

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1 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Sexual Misconduct)**

10 10. Respondent has subjected his Physician's and Surgeon's Certificate No. G 83487 to
11 disciplinary action under Code section 726 in that he committed acts of sexual abuse and
12 misconduct with Patient A.¹ The facts are more particularly alleged hereafter:

13 11. On or about January 26, 2022, Patient A had an appointment with Respondent for a
14 follow-up concerning bilateral cataract surgery. When Respondent arrived in the exam room, he
15 and Patient A exchanged pleasantries. Patient A brought Respondent a magazine she thought he
16 would like and they discussed an article in it. While Respondent was seated, with Patient A
17 standing next to him on the right, they watched a video about the magazine article on Patient A's
18 cell phone. While doing this, Respondent wrapped his right arm around Patient A's waist and
19 torso, pulled her closer, and began to stroke her right thigh and upper leg. Patient A never gave
20 Respondent permission to touch her and she pulled away, and sat in the exam chair, and tried to
21 change the subject.

22 12. During the exam portion of the appointment, Respondent sat on a stool and straddled
23 Patient A's legs. At the same time, Respondent was "pressing in and stroking her thighs with his
24 hands." When Respondent pushed back his stool, Patient A stood up and then Respondent stood
25 very close and put his hands on her shoulders. Respondent pulled her very close and pressed his
26 body against hers, with full frontal contact and Respondent stroked side of Patient A's body and
27 thighs. Patient A could feel Respondent's erect penis on her abdomen and lower stomach as they

28 ¹ Identity of individual withheld for privacy reasons.

1 were pressed tighter. Respondent then stood back and left the room. There was no one else in the
2 room and the exam room door was closed.

3 13. After the appointment, Patient A checked out of Respondent's office, making a
4 follow up appointment, which she later cancelled. Patient A would later report the encounter to
5 the Board on January 4, 2023.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct)**

8 14. Respondent has further subjected his Physician's and Surgeon's Certificate No.
9 G 83487 to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the
10 Code, in that he engaged in conduct which breaches the rules or ethical code of the medical
11 profession, or conduct which is unbecoming a member in good standing of the medical
12 profession, and which demonstrates an unfitness to practice medicine, as more particularly
13 alleged in paragraphs 10 through 13, above, which are hereby set forth herein.

14 **DISCIPLINARY CONSIDERATIONS**

15 15. To determine the degree of discipline, if any, to be imposed on Respondent Brian
16 Pendleton, M.D., Complainant alleges that on February 4, 2011, in a prior disciplinary action
17 before the Medical Board of California, Case No. 1000009989, Respondent's license was issued a
18 public letter of reprimand for engaging in a sexual relationship with a patient.

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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 83487, issued to Respondent Robert Brian Pendleton, M.D.;

2. Revoking, suspending or denying approval of Respondent Robert Brian Pendleton, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Robert Brian Pendleton, 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;

4. Ordering Respondent Robert Brian Pendleton, M.D., if placed on probation, to provide patient notification in accordance with Business and Professions Code section 2228.1; and

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

DATED: **FEB 16 2024**


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

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