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

In the Matter of the Accusation Against: Mark Lee Weissman, M.D. Physician's and Surgeon's Certificate No. G 55308 Respondent.	Case No. 800-2018-045202

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 16, 2021.

IT IS SO ORDERED December 9, 2021.

MEDICAL BOARD OF CALIFORNIA

For: William Prasifka
Executive Director

Reji Varghese
Deputy Director

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
CHRISTINE R. FRIAR
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **MARK LEE WEISSMAN, M.D.** **22948 Styles Street** **Woodland Hills, CA 91367** **Physician's and Surgeon's Certificate No. G 55308,** Respondent.	Case No. 800-2018-045202 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Christine R. Friar, Deputy Attorney General.

2. Respondent Mark Lee Weissman, M.D. (Respondent) is represented in this proceeding by attorney Benjamin J. Fenton, Esq. of The Fenton Law Group, located at 1990 S.

Bundy Drive, Suite 777, Los Angeles, CA 90025.

3. On or about July 8, 1985, the Board issued Physician's and Surgeon's Certificate No. G 55308 to Respondent. That Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-045202 and expired on December 31, 2018.

JURISDICTION

4. Accusation No. 800-2018-045202 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 October 19, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-045202 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. 800-2018-045202. 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.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2018-045202, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent admits that at a hearing, Complainant could set forth a prima facie case for the charges and allegations in Accusation No. 800-2018-045202, and Respondent declines to defend same.

10. 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.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. 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.

13. This Stipulated Settlement 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.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 55308, issued to Respondent Mark Lee Weissman, 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. 800-2018-045202 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. 800-2018-045202 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.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Benjamin J. Fenton. 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: September 24, 2021

Mark Lee Weissman, M.D.
MARK LEE WEISSMAN, M.D.
Respondent

I have read and fully discussed with Respondent Mark Lee Weissman, 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: November 9, 2021

BENJAMIN J. FENTON
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: December 6, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

Christine Friar Digitally signed by Christine Friar Date: 2021.12.06 13:24:54 -08'00'

CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

LA2020601558

Exhibit A

Accusation No. 800-2018-045202

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

In the Matter of the Accusation Against: **Mark Lee Weissman, M.D.** **22948 Styles Street** **Woodland Hills, CA 91367** **Physician's and Surgeon's Certificate** **No. G 55308,** Respondent.	Case No. 800-2018-045202 **ACCUSATION**

PARTIES

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

2. On or about July 8, 1985, the Medical Board issued Physician's and Surgeon's Certificate Number G 55308 to Mark Lee Weissman, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and expired on December 31, 2018.

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 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(c) Investigating the nature and causes of injuries from cases which shall be reported

of a high number of judgments, settlements, or arbitration awards against a physician and surgeon.

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

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

STATUTORY PROVISIONS

8. Section 2234 of the Code, states:

> 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.
>
> (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.
>
> (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.

9. Section 726 of the Code states:

(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this or under any initiative act referred to in this division.

(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.

10. Section 729 of the Code states:

(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor is a public offense:

(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) An act or acts in violation of subdivision (a) with two or more victims shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(4) Two or more acts in violation of subdivision (a) with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(5) An act or acts in violation of subdivision (a) with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars ($10,000).

For purposes of subdivision (a), in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.

(c) For purposes of this section:

(1) "Psychotherapist" has the same meaning as defined in Section 728.

(2) "Alcohol and drug abuse counselor" means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.

(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.

(d) In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(e) This section does not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

(f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in a professional partnership or similar group has sexual contact with a patient in violation of this section, another physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in the partnership or group shall not be subject to action under this section solely because of the occurrence of that sexual contact.

FACTUAL ALLEGATIONS

11. In or around 1996, Respondent started working at the Motion Picture & Television Fund Toluca Lake Health Clinic (TLHC) providing, among other services, well-woman care to female patients.

12. On or about March 7, 2014, Respondent saw Patient 1 for a well-woman exam. Nurse 1 assisted Respondent. When Respondent started the breast exam on the patient, he kept one hand on top of her breast cupping it at all times while he examined her breast with the other

hand. He consistently kept his hand on the breast over her nipple and moved it only to examine that part of the breast. He repeated this conduct on the patient's other breast.

13. Respondent also performed a Pap smear. Nurse 1 got Patient 1 in position and handed Respondent the speculum. Respondent said he was going to examine the outside of her vagina first then localize her cervix. Respondent started to spread the patient's vaginal folds and then put his index finger into her vagina while he kept his thumb over her clitoris. Respondent moved his finger in and out and side to side, asking the patient if anything hurt, saying he was trying to localize her cervix. Respondent then turned his hand to position the patient's clitoris between his ring finger and his middle finger. During this exam, Respondent did not push on the patient's abdomen to check her ovaries for tenderness; he just kept his hand in the vagina. The patient looked uncomfortable. Respondent then withdrew his finger and placed the speculum in the vagina. He used the cyto brush first which made her bleed. Respondent told the patient she might bleed for a couple days. Respondent then used the plastic speculum which made the patient jump. The patient appeared to be in pain. After taking the samples, Respondent concluded the exam.

14. Nurse 1 filed a Quality of Care/Risk Management Occurrence Report with the director of TLHC. Thereafter Respondent was provided retraining on how to conduct an appropriate Pap smear by an OBGYN at TLHC. In addition, nurses were advised to direct patients away from Respondent if the patients needed Pap smear or breast exams. A banner ("No WWW or PAP smears") was placed on Respondent's electronic calendar indicating he should not do well-women exams or Pap smears.

15. On or about April 22, 2014, after TLHC was acquired by UCLA Health, Respondent became a contract physician for the UCLA Faculty Practice Group at TLHC.

16. On or about January 13, 2017, Patient 2 saw Respondent at TLHC for an annual check-up.

17. On or about May 11, 2018, at a subsequent office visit to TLHC with a different physician, that physician reported to a clinic manager that Patient 2 had described receiving an inappropriate breast exam from Respondent during her annual check-up. The clinic manager

reported the complaint to the Vice Chair, Department of Medicine, UCLA Health Community Physicians Network & Entertainment Industry Medical Group. An investigation by UCLA Health ensued.

18. On or about May 17, 2018, Respondent was notified that effective immediately he was being placed on investigatory leave by UCLA. The notice stated, "This action is being initiated to determine concerns related to performance and conduct involving a patient."

19. On or about May 31, 2018, Respondent was advised by UCLA that his investigatory leave was continued. He was advised that the investigation related to his performance and conduct involving a patient.

20. On or about June 14, 2018, Respondent was reminded by letter from the UCLA Faculty Practice Group that his current appointment would terminate on June 30, 2018. The letter stated, "On May 17, 2018, you were placed on investigatory leave for concerns related to performance and conduct involving a patient." The letter further stated, "This is to inform you that your current appointment ending June 30, 2018 will not be renewed."

21. On or about June 22, 2018, UCLA Health Faculty Practice Group filed a report with the Medical Board pursuant to Business and Professions Code section 805 indicating a formal investigation had been started against Respondent based on sexual misconduct with one or more patients during the course of treatment or an examination.

FIRST CAUSE FOR DISCIPLINE

(Sexual Misconduct)

22. Respondent Mark Lee Weissman, M.D. is subject to disciplinary action under section 726 of the Code in that he committed acts of sexual abuse and/or sexual misconduct with a patient. The circumstances are as follows:

23. The facts and circumstances alleged in paragraphs 12 and 13 above are incorporated here as if fully set forth.

SECOND CAUSE FOR DISCIPLINE

(Sexual Exploitation)

24. Respondent Mark Lee Weissman, M.D. is subject to disciplinary action under section

729 of the Code in that he engaged in acts of sexual contact with a patient. The circumstances are as follows:

25. The facts and circumstances alleged in paragraphs 12 and 13 above are incorporated here as if fully set forth.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence)

26. Respondent Mark Lee Weissman, M.D. is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he engaged in gross negligence in the care and treatment of a patient. The circumstances are as follows:

27. The facts and circumstances alleged in paragraphs 12 and 13 above are incorporated here as if fully set forth.

28. On or about March 7, 2014, Respondent was grossly negligent when he engaged in sexual abuse and/or sexual misconduct and/or sexual contact in performing a breast exam of Patient 1.

29. On or about March 7, 2014, Respondent was grossly negligent when he engaged in sexual abuse and/or sexual misconduct and/or sexual contact when he performed a pap smear exam on Patient 1.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

30. Respondent Mark Lee Weissman, M.D. is subject to disciplinary action under section 2234 of the Code in that he engaged in unprofessional conduct. The circumstances are as follows:

31. The facts and circumstances alleged in paragraphs 22 through 29 are incorporated here as if fully set forth.

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 Number G 55308,

issued to Mark Lee Weissman, M.D.;

2. Revoking, suspending or denying approval of Mark Lee Weissman, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Mark Lee Weissman, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: October 19, 2020

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

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