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

In the Matter of the Accusation Against: **Sudha A. Russell, M.D.** **Physician's & Surgeon's Certificate No G 54900** **Respondent**	**Case No. 800-2019-053663**

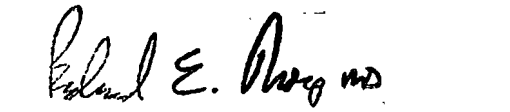
DECISION

The attached Stipulated Settlement 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 24, 2022.

IT IS SO ORDERED January 25, 2022.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel B

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
TRINA L. SAUNDERS
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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:	Case No. 800-2019-053663
SUDHA A. RUSSELL, M.D. **114 E. Morrison Ave.,** **Santa Maria, CA 93454-6620**	OAH No. 2021010137
Physician's and Surgeon's Certificate No. G 54900,	**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**
Respondent.	

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 Trina L. Saunders, Deputy Attorney General.

2. Respondent Sudha A. Russell, M.D. (Respondent) is represented in this proceeding by attorney Kent Thomas Brandmeyer, of 2 North Lake Avenue, Suite 820, Pasadena, CA 91101.

3. On September 1, 2008, the Board issued Physician's and Surgeon's Certificate No. G 54900 to Sudha A. Russell, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-053663, and will expire on September 30, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-053663 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 September 9, 2020. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-053663 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-053663. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2019-053663, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie case for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 Settlement 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.

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

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

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. G 54900 issued to Respondent Sudha A. Russell, M.D., is publicly reprimanded pursuant to California

Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Respondent's care and treatment of a single patient, as set forth in Accusation No. 800-2019-053663, states as follows:

In 2019, you were negligent, in the care and treatment of a minor patient. An eleven-year-old female patient, who was accompanied by her mother, presented to you for knee pain and itchy skin. Despite the mother's representation that her daughter was female, you doubted the veracity of the representation, due to the child wearing a hoodie which covered her hair, your perception that her name was suited for a male as opposed to a female, and your belief that she had an androgynous look. You inappropriately conducted a physical examination of the patient's breasts to confirm her gender.

2. EDUCATION. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours, and must include course(s) in the area of professional boundaries. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course.

Such review course work taken after February 15, 2019, which is after the date of the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted toward the fulfillment of this condition, if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or 15 days after the effective date of this Decision, whichever is later.

Failure to successfully complete this coursework within 180 days of the effective date of

the decision shall be a violation of this agreement and Disciplinary Order, and shall constitute unprofessional conduct. In that event, the matter will be returned to the Office of Administrative Hearings for further proceedings on Accusation No. 800-2019-053663.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kent Thomas Brandmeyer. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 11/17/2021 Sudha A Russell MD

SUDHA A. RUSSELL, M.D.
Respondent

I have read and fully discussed with Respondent Sudha A. Russell, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 11/19/2021

KENT THOMAS BRANDMEYER
Attorney for Respondent

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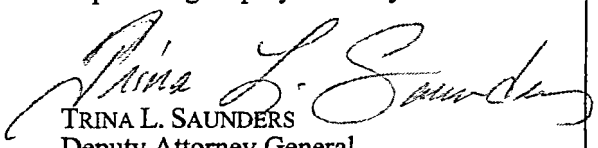
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: November 19, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



TRINA L. SAUNDERS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

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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: Sudha A. Russell, M.D. 9603 Tonset Street Bakersfield, CA 93313-6130 Physician's and Surgeon's Certificate No. G 54900, Respondent.	Case No. 800-2019-053663 **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 September 1, 2008, the Medical Board issued Physician's and Surgeon's Certificate Number G 54900 to Sudha A. Russell, 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 will expire on September 30, 2022, 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 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 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.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

6. Respondent, a pediatrician, is subject to disciplinary action under section 2234, subdivision (b), gross negligence, in that she inappropriately conducted an unnecessary breast examination of a patient during a medical appointment. The circumstances are as follows:

7. On February 25, 2019, an eleven-year-old patient presented to Respondent at North Valley Health Corporation, with complaints of right knee pain and itchy skin. The patient was accompanied by her mother. The patient's mother was present in the examination room, during her appointment.

8. Respondent took the patient's history. The patient's knee pain had a sudden onset and had been present for approximately one month, at the time of her appointment. The pain was constant and of moderate severity. The pain was aggravated by bending and climbing stairs. However, the patient was able to walk well. Acetaminophen had been used for pain relief. A bike landed on the patient while she was on the subway and was presumably the cause of the pain. At the time of the visit, the right knee had slight tenderness over the supra patellar region and there was discoloration at the site. The knee had intact range of motion. The patient had no pain on weight bearing and the popliteal pulse exam was normal. Respondent's diagnosis was

contusion of the right knee. She recommended radiographs, non-steroidal anti-inflammatory medication as needed for pain and distress, and a return to the clinic in four days for radiograph results and a recheck. The patient's itchy skin was also evaluated. The patient had a history of eczema. She presented with complaints of itchy skin for several months, with itching that interrupted her sleep. The patient had been using Benadryl to manage her sleep. A referral to an allergist was requested by the patient's mother. Respondent diagnosed dry skin dermatitis and recommended the use of Eucerin cream each night for two weeks and a return visit to the clinic in four days for a recheck and follow-up.

9. During the above-described visit, Respondent referred to the patient as a boy, by using masculine pronouns when speaking about her. Pursuant to the report of investigation, the patient was offended. The patient's mother, who was present, corrected Respondent. In turn, Respondent commented that the patient having the hood on her jacket pulled up made her look like a boy, but said that when she removed the hood she was beautiful. The Respondent also commented that the patient's legs were beautiful, but her feet were ugly. Respondent also took the palm of her hand and groped the patient's breast in a vertical up and down direction, and commented that the patient was not developing.

10. Respondent admitted that because she did not think that the patient appeared to be female, that she confirmed that the patient was female by touching the patient's breast. She explained that in her experience, knee pain and itchy skin may not have been the real reason for the patient's visit to her office.

11. Respondent's inappropriate physical examination of the patient's breast without indication for examination is an extreme departure from the standard of care.

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 54900, issued to Sudha A. Russell, M.D.

2. Revoking, suspending or denying approval of Sudha A. Russell, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Sudha A. Russell, 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: SEP 09 2020

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

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