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

In the Matter of the Accusation Against: Frank Siu-Fung Hsu, M.D. Physician's and Surgeon's Certificate No. C 39702 Respondent.	Case No. 800-2018-051267

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 October 31, 2020.

IT IS SO ORDERED AUG 14 2020.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
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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: **FRANK SIU-FUNG HSU, M.D.** **19845 Lake Chabot Rd. Ste. 211** **Castro Valley CA 94546-4055** **Physician's and Surgeon's Certificate No. C 39702** Respondent.	Case No. 800-2018-051267 **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 Xavier Becerra, Attorney General of the State of California, by Carolyne Evans, Deputy Attorney General.

2. FRANK SIU-FUNG HSU, M.D. (Respondent) is represented in this proceeding by attorney James Zenere, whose address is: Sheuerman, Martini, Tabari, Zenere & Garvin, 1033 Willow St., San Jose, CA 95125.

3. On or about April 6, 1981, the Board issued Physician's and Surgeon's Certificate No. C 39702 to FRANK SIU-FUNG HSU, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-051267 and will expire on July 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-051267 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 December 6, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-051267 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. 800-2018-051267. 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. 800-2018-051267, 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 agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

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. 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. C 39702, issued to Respondent FRANK SIU-FUNG HSU, 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. 800-2018-051267 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney James Zenere. 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: July 15, 2020

FRANK SIU-FUNG HSU, M.D.
Respondent

I have read and fully discussed with Respondent FRANK SIU-FUNG HSU, 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: July 17, 2020

JAMES ZENERE
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: July 17, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

Carolyne Evans

CAROLYNE EVANS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2018-051267

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 6 2019
BY: Sharii Willie ANALYST

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

In the Matter of the Accusation Against: **Frank Siu-Fung Hsu, M.D.** 19845 Lake Chabot Rd. Ste. 211 Castro Valley CA 94546-4055 Physician's and Surgeon's Certificate No. C 39702, Respondent.	Case No. 800-2018-051267 **ACCUSATION**

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as Interim Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On April 6, 1981, the Medical Board issued Physician's and Surgeon's Certificate Number C 39702 to Frank Siu-Fung Hsu, 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 July 31, 2020, unless renewed.

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 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.

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.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Gross Negligence/Repeated Negligent Acts/Incompetence)

6. Respondent is subject to disciplinary action under sections 2234 and/or 2234(b) and/or 2234(c) in that Respondent engaged in unprofessional conduct and/or was grossly negligent and/or committed repeated acts of negligence in his care and treatment of Patient.[1] The circumstances are as follows:

7. Respondent practices as an endocrinologist. Patient had a history of Graves' disease[2] for which she received radioactive iodine treatment in 2013. Following treatment, Patient

[1] The patient is referred to as Patient to protect privacy.

[2] Graves' disease is an immune system disorder that results in overproduction of thyroid hormones.

developed hypothyroidism and was prescribed levothyroxine. In 2018, Patient's primary care physician referred her to Respondent for a thyroid consultation. At the time of the referral, the primary care physician prescribed levothyroxine 125 mcg per day.

8. Respondent saw Patient on November 21, 2018. Respondent met with Patient, obtained a history and performed a review of systems. He reviewed laboratory test results from May 2018 showing elevated thyroid stimulating hormone and normal prolactin levels. Respondent did not order or obtain current lab work.

9. After Respondent completed the patient history portion of the visit, Patient was instructed to disrobe from the waist up and put on a paper gown. Respondent then re-entered the room. No chaperone was present. Respondent listened to Patient's heart with a stethoscope. Then, without warning and without patient permission, Respondent grabbed both of Patient's nipples with his ungloved hands, squeezed the nipples in a pinching, twisting motion, and commented on the appearance of Patient's nipples.

10. Respondent stated during his interview with the Board's investigator that he had no recollection of Patient or the November 2018 office visit. He acknowledged that when he has concern about significant hypothyroidism, he may examine a patient's breasts to see if there is nipple discharge.

11. Based on the May 2018 lab result showing elevated thyroid stimulating hormone level and Patient's complaint of tiredness, Respondent increased the levothyroxine from 125 to 137 mcg daily, and instructed her to return in two months for follow-up.

12. Respondent is guilty of unprofessional conduct and Respondent's certificate is subjected to discipline pursuant to Sections 2234 and/or 2234(b) and/or 2234(c) and/or 2234(d) of the Code based upon unprofessional conduct, and/or gross negligence and/or repeated negligent acts, and/or incompetence, including but not limited to the following:

A. Respondent increased Patient's thyroid medication based solely on symptoms, without obtaining current laboratory tests.

B. Respondent touched Patient's breasts and/or nipples without prior discussion or patient permission, and without medical indication.

C. Respondent's practice of squeezing the nipples of hypothyroid patients, even in the absence of laboratory tests showing elevated prolactin or breast complaints, indicates a lack of current knowledge or ability.

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 C 39702, issued to Frank Siu-Fung Hsu, M.D.;

2. Revoking, suspending or denying approval of Frank Siu-Fung Hsu, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Frank Siu-Fung Hsu, 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: December 6, 2019

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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