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

In the Matter of the Statement of Issues Against: Sanford Stephen Weissbuch, M.D. Physician's and Surgeon's Certificate No. G 37928 Respondent.	Case No. 800-2019-061178

DECISION

The attached Proposed Decision 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 March 4, 2021.

IT IS SO ORDERED: February 2, 2021.

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair
Panel B

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

In the Matter of the Statement of Issues against:

SANFORD STEPHEN WEISSBUCH, M.D., Respondent

Agency Case No. 800-2019-061178

OAH No. 2020040886

PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this by video and teleconference on October 26, 2020.

Chris Leong, Deputy Attorney General, represented complainant William Prasifka, Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

Respondent Sanford Stephen Weissbuch, M.D., appeared and represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on October 26, 2020.

FACTUAL FINDINGS

Jurisdiction

1. On August 21, 1978, the Board issued Physician's and Surgeon's Certificate number G 37928 to respondent. The certificate, valid and current at all relevant times, was placed on inactive disabled status in 1998 and is scheduled to expire on May 31, 2022.

2. On May 31, 2018, the Board received respondent's Application to Restore License to Full, Active Status from Inactive, Disabled or Fee Exempt Status (Application to Restore License). The Board denied the application fifteen months later, on August 26, 2019. Respondent timely requested a hearing.

3. On March 30, 2020, Christine J. Lally filed the Statement of Issues in her official capacity as the Interim Executive Director of the Board.

Respondent's Background

4. Respondent, now 66 years old, graduated with a medical degree from Loyola University of Chicago in 1977. From 1977 to 1978, respondent completed a general surgery internship at the University of Illinois Research Hospital. From 1978 to 1981, he completed a residency in diagnostic radiology at Wadsworth V.A. Hospital in Los Angeles. He then completed a neuroradiology fellowship at the University of Southern California from 1981 to 1983. Respondent was certified by the American Board of Radiology in diagnostic radiology in 1982 and in neuroradiology in 1996. Prior to an illness in 1998, which forced him to stop practicing, Dr. Weissbuch worked as a radiologist and neuroradiologist at Simi Health Center in Simi Valley.

Illness and Subsequent Psychological Examinations

5. Respondent fell ill with flu symptoms, including fever, in November 1997. After his recovery, he experienced concentration and memory problems that began affecting his work. He consulted his attending physician and neurologist, Benjamin Gross, M.D., who suggested his illness had caused febrile encephalopathy, damage to the brain accompanying the fever. An MRI revealed indications of cerebral atrophy.

6. Respondent received a neuropsychological examination from Louis F. D'Elia, Ph.D., a clinical neuropsychologist, in October 1998. Dr. D'Elia found respondent to be high functioning in general intellectual ability and verbal and perceptual reasoning. But he found impairment in processing speed, attention, verbal and nonverbal learning, memory, and executive functioning. Dr. D'Elia diagnosed Dementia Not Otherwise Specified (most probably secondary to the November 1997 sustained high temperature and viral encephalopathy) and Adjustment Disorder with Depression, mild.

7. On July 25 and August 8, 2017, Ellen Shirman, Psy.D., performed a comprehensive neuropsychological evaluation of respondent. Dr. Shirman interviewed respondent and applied various neuropsychological tests for intellectual functioning, including executive functioning, processing speed, verbal learning and memory, perceptual reasoning and visual memory, language and motor functions, and emotional functioning. In her August 10, 2017 report, Dr. Shirman related what respondent reported concerning his medical history. He told her he had not practiced medicine since 1998, but "with 'super nutrition and exercise' he achieved marked improvement in his cognition. However, he still has issues with multitasking and mental sharpness, noting this occurs only when he feels tired. He believes that he is

cognitively and emotionally fit to resume practicing medicine and driving." (Ex. 6, p. 44.)

8. Dr. Shirman found:

> The results of the evaluation indicate that Dr. Weissbuch is currently functioning in the High Average range of general intellect (Full Scale IQ= 110). . . .
>
> He demonstrated superior verbal comprehension skills and above average perceptual reasoning abilities. On the other hand, he evidenced a deficit in executive function, as reflected in his below expectations performances on tests of verbal fluency, working memory and inhibitory controls . . . . A tendency towards perseveration . . . and some difficulty with planning . . . added further support to the finding of executive function weakness.
>
> Dr. Weissbuch demonstrated some difficulty memorizing information requiring semantic processing (stories). However, his performance on the test of list learning evidenced an intact ability to memorize and learn new information. Similarly, he evidenced intact visual memory.
>
> Executive dysfunction in combination with slowed speed is most likely the underlying cause of Dr. Weissbuch' s self-reported cognitive complaints.

> As to the [*sic*] Dr. Weissbuch' s emotional state, testing indicated that he is well adjusted, has a positive self-image, adequate coping skills, and good psychological resources and exercises good emotional control.
>
> In sum, Dr. Weissbuch is a bright individual with superior verbal comprehension and high average perceptual reasoning abilities. He demonstrated areas of relative weakness on the tasks of executive function and processing speed. Although these abilities are lower than expected given his overall functional level, they are still within the Average range, with a few exceptions. [¶] . . . [¶]
>
> As to whether he is fit to resume his vocation as a physician, I would leave this determination to his medical board. A re-entry program where his abilities to successfully and safely practice medicine are assessed might be helpful in determining his readiness to resume practice.

(Ex. 6, pp. 49-50.)

Application to Restore License

9. In the Application to Restore License, a section on "Disabled Status" must be completed by the applicant's attending physician. The section's instructions state: "Under state law, the applicant must establish to the satisfaction of the Board that the illness or disability no longer exists or does not affect the applicant's ability to practice medicine safely." (Ex. 5, p. 38.)

10. Dr. Gross wrote that respondent had suffered from a "cognitive/memory decline," but that his "persistence in healthy lifestyle, supplements and nutritional optimization has significantly improved his cognitive reserve function." (Ex. 5, p. 38.) Dr. Gross wrote that respondent would be able to practice 40 hours per week.

PACE Assessment

11. By letter dated August 15, 2018, the Board responded to the Application to Restore License, informing respondent that he would be required to undergo an independent assessment at the Physician Assessment and Clinical Education (PACE) program or another program "to rule out any factors that may compromise your ability to provide safe patient care as an independent practitioner," and that he would have to undergo a medical evaluation. (Ex. 7, p. 52.)

12. Respondent underwent the independent assessment at PACE from November 5 through 7, 2018. By letter dated January 9, 2019, William A. Norcross, M.D., Director of the PACE program, and Patricia Smith, M.P.H., Case Manager at PACE, wrote to the Board of the assessment results, which included the following.

PHYSICAL EXAMINATION

13. Martin Schulman, M.D., conducted a physical examination of respondent. Dr. Schulman made "no physical exam findings that would affect Dr. Weissbuch's ability to practice medicine safely at this time. [¶] Dr. Schulman also administered the Montreal Cognitive Screening Assessment (MoCA) as part of his evaluation. Dr. Weissbuch scored 26 out of 30, where scores greater than or equal to 26 are considered normal." (Ex. 8, p. 55.)

COGNITIVE SCREENING TEST

14. A cognitive screening test, the Microcog, was administered to determine whether respondent should be referred for a full neuropsychological evaluation. William Perry, Ph.D., Professor-in-Residence and Associate Director of the Neuropsychiatry and Behavioral Medicine Service at the UCSD Medical Center, reviewed respondent's Microcog results on November 21, 2018, and recommended respondent undergo a neuropsychological fitness for duty evaluation (FFDE). An FFDE "is a formal, specialized examination performed by a clinical neuropsychologist that assesses cognitive areas in order to objectively determine if there is evidence that the physician is unable to safely or effectively perform his/her defined duties." (Ex. 8, p. 56.) "Referring a physician for an FFDE is indicated whenever there is an objective and reasonable basis for believing that he/she may be unable to safely and/or effectively perform his or her duties due to a neuropsychological/psychological condition or impairment." (Ex. 8, p. 57.)

EVALUATION AS A RADIOLOGIST

15. Roland Lee, M.D., Professor of Radiology, conducted an evaluation of respondent in neuroradiology over two days. Dr. Lee testified at hearing and wrote in a summary of his evaluation that respondent told him that he "feels that his mental capacities have recovered, aided by his strict vegetarian diet and exercise regimen. He is an active proponent of healthy nutrition and hopes to educate others about nutrition. [¶] He said that he has kept up with clinical neuroradiology by viewing several videotaped lectures on the Internet, and also reviewed neuroanatomy in classic textbooks." (Ex. 8, p. 57.)

16. The first day of the neuroradiology evaluation, Dr. Lee reviewed MRI and CT cases with respondent; the second day, respondent and Dr. Lee attended Radiology Grand Rounds and reviewed more CT and MRI cases. Dr. Lee wrote, and adopted in his testimony at hearing:

> Obviously, Dr. Weissbuch cannot now practice neuroradiology or general radiology on his own, since he has not done so for 20 years. Besides needing to learn many new facts, and how to integrate new imaging technologies, new imaging findings, and new diseases/diagnoses discovered over the last 20 years, more importantly he must re-learn how to "do" radiology—i.e. rapidly/instantaneously view hundreds to thousands of images per case, "see" the abnormal findings and the normal findings and normal variants, formulate the differential diagnosis, and arrive at the final diagnosis—for 10 hours every day. Note that in the 1990s, each CT or MRI scan was in the 10s to low 100s of images; now they are in the 100s to thousands of images/case. [¶]
>
> . . . . His medical license will enable him to enroll in accredited postgraduate training in an academic medical center. He has a lot of new material to learn, so he should be in an enriched academic environment with multiple multi-disciplinary conferences, as well as the high-volume and varied clinical material found in a major academic medical center. . . .

> Because of his advanced age and the fact that he has not practiced medicine for 20 years, Dr. Weissbuch will not be competitive/eligible for an academic faculty position in neuroradiology. So if he practices radiology, it will be in private practice or teleradiology, and those jobs most likely will not involve 100% neuroradiology. Thus he must re-train in general radiology in addition to neuroradiology.
>
> I recommend that he do at least 2 years of fellowship, such as one year of neuroradiology and another fellowship in a combination of subfields including body-imaging, musculoskeletal, or chest (or 1 year of general radiology residency if a slot somewhere is available).

(Ex. 8, pp. 58-60; ex. A, pp. 10-12.)

17. Dr. Lee testified that, if respondent is accepted into a residency or fellowship program at the University of California, San Diego, he would be willing to work with respondent.

SUMMARY OF PACE FINDINGS

18. Dr. Norcross and Ms. Smith wrote that respondent's performance on the PACE physician assessment was unsatisfactory.

> On physical examination, there were no findings that would preclude Dr. Weissbuch from practicing medicine safely; however, his score on the MoCA was borderline at 26 out of 30 and his performance on the Microcog indicated further

neuropsychological evaluation. During the neuroradiology assessment, Dr. Weissbuch demonstrated somewhat outdated medical knowledge. Furthermore, his knowledge of brain anatomy and physiology was subpar for a neuroradiologist. Although he was familiar with some of the terms related to newer technology in the field such as diffusion-weighted imaging or susceptibility-weighted imaging, he was unfamiliar with the scans and, therefore, was unable to adequately interpret them.

. . . Dr. Lee commented that Dr. Weissbuch will essentially need to relearn how to be a radiologist/neuroradiologist, and until such time, is not currently safe to practice independently. Dr. Lee recommended Dr. Weissbuch participate in a minimum of two years of fellowship training to learn how to integrate new imaging technologies, new imaging findings, and new diseases/diagnoses.

Furthermore, there are still some lingering concerns about his cognitive functioning as demonstrated by his performance on MicroCog, MoCA and previous neuropsychological testing. In order to return to independent practice, Dr. Weissbuch will need to undergo additional neuropsychological evaluation to rule out any potential cognitive impairment that could affect his ability to practice followed by formal training in radiology.

> Based on our evaluation, we do not feel Dr. Weissbuch is currently safe for independent practice. However, we do support Dr. Weissbuch being given a training license and practicing in an accredited training environment if/when he is able to demonstrate a clean bill of health.

(Ex. 8, p. 60.)

19. The PACE program recommended, among other things, that respondent undergo an FFDE and, if there is no evidence of significant cognitive impairment, respondent "should participate in at least 2 years of fellowship or residency training, such as one year of neuroradiology and another year-long fellowship in a combination of subfields including body-imaging, musculoskeletal, or chest (or 1 year of general radiology residency if a slot somewhere is available). Ideally, Dr. Weissbuch should enroll in accredited postgraduate training in an academic medical center. He has a lot of new material lo learn, so he should be in an enriched academic environment with multiple multi-disciplinary conferences, as well as the high-volume and varied clinical material found in a major academic medical center." (Ex. 8, p. 61.)

20. The report concluded:

> Dr. Weissbuch's overall performance on our comprehensive physician assessment is consistent with a FAIL, Category 4. We reiterate that the Category 4, Fail determination is based on our opinion that he is unable to safely re-enter independent practice at this time. However, should subsequent neuropsychological testing reveal he is in reasonably good health, and a fellowship or residency

position is available, we do support his participation in that pathway.

(Ex. 8, p. 61, emphasis omitted.)

21. Dr. Norcross testified that, despite the PACE report calling for a neuropsychological FFDE, he is satisfied with the results of respondent's independent neuropsychological examination in 2017. Dr. Norcross's main concern is not respondent's cognitive functioning, but the 22 years respondent has not been practicing medicine.

22. Dr. Norcross relies primarily on Dr. Lee's report that respondent could practice safely only were he to complete a two-year fellowship program at a high-powered academic institution with strong education and supervision, spending one year in general radiology and one year in neuroradiology. If respondent can enter an appropriate fellowship program, then his cognitive functioning, despite some deficiencies, is sufficient at least "to give it a try."

23. Dr. Norcross also testified that, despite respondent's expressed interest in teaching nutrition, he does not see how respondent can practice in that field, a separate discipline for which years of study are required to obtain a degree.

Additional Physical Examination

24. Jacob M. Gold, M.D., specializes in internal medicine, practices at UCLA Health, and is respondent's personal physician. Dr. Gold conducted a physical examination of respondent on May 17, 2019. In a report he sent to the Board on May 24, 2019, Dr. Gold wrote that he found respondent to be "a very healthy adult male without any evident pathology." (Ex. 9, p. 64.) He testified at hearing and adopted the

statements in his examination report. When he conducted the physical examination, Dr. Gold also administered to respondent a Montreal Cognitive Assessment; respondent scored 30 out of a possible 30. Dr. Gold found respondent to be physically and cognitively intact.

The Board's Response to PACE's Findings

25. By letter dated August 26, 2019, the Board informed respondent of its denial of his Application to Restore License "due to potential neurocognitive deficits and outdated medical knowledge." (Ex. 10, p. 78.) The Board wrote that PACE had determined the necessity of his undergoing a neuropsychological FFDE, and of his participating in at least two years of additional training, in order to demonstrate his ability to practice medicine safely. In response to the Board's letter, respondent requested this hearing.

Respondent's Evidence

26. In support of his Application to Restore License, respondent wrote to the Board on August 16, 2018, that five or six years earlier he adopted "a high nutrient quality whole food plant-based diet and recently added herbal supplements know[n] to improve cognitive function . . . . [¶] I and my neurologist have noted marked improvement in cognitive function and sense of well-being! [¶] . . . [¶] I am now eager to resume my Radiological Practice (and teach and educate people about whole food plant-based nutrition to avert chronic diseases)." (Ex. 14, p. 24.)

27. Respondent has been presenting material on plant-based nutrition's effect on the prevention and reversal of chronic disease. He has presented in programs sponsored by the Cedars-Sinai Alumni Association and Medical Staff, to medical staff, employees, and volunteers. He completed, on March 21, 2018, a certificate program in

Plant-Based Nutrition at the T. Colin Campbell Center for Nutrition Studies through eCornell. (Ex. A, p. 29.)

28. Respondent wrote that, after he stopped practicing medicine, he became president and CEO of an online seller of watches and clocks, but that he has "been brushing up on my radiological, neurological knowledge and reviewing both whole body and neurological anatomy." (Ex. 14, p. 26.) Respondent submitted certificates evidencing his CME credits over the past two years.

29. If his license is again made active, respondent would like to enter a fellowship program in neuroradiology and other radiology specialties. He would also like to practice lifestyle/nutritional medicine, perhaps in association with Joel Fuhrman, M.D., a board-certified family physician, at Dr. Fuhrman's "Eat to Live" medical retreat in San Diego. (Ex. A, p. 4.) "I strongly believe that Nutrition is the Foundation for Enduring Health!" (Ex. 14, p. 27.)

30. Respondent wrote that he would prevent any relapse in his own mental condition by maintaining his whole-food diet, taking supplements, maintaining top physical fitness, and not overworking. At hearing, respondent recited, while nearly overcome with emotion, his own "Affirmation for Self Improvement." It commences, "Day by Day in Every Way I'm Getting Better and Better!!!," and goes on to exclaim that he is getting younger, stronger, fitter, firmer, smarter, more creative, dynamic, and imaginative, kinder, more compassionate, caring, giving, forgiving, loving, human, and humane. (Ex. A, p. 38.) He testified that this affirmation has gotten him through the past 20 years.

31. Respondent concurs that the Board must protect the public; he believes he can make a major contribution to that end. About PACE assigning him a FAIL grade,

respondent testified "I think they got it wrong." He claims to be fully recovered from any cognitive deficits. He is willing to accept a probationary reinstatement of his active license requiring him to complete a two-year fellowship before being allowed to practice. He looks forward to updating his skill set and fine-tuning his knowledge. He would love to be able to teach residents those subjects, as he always gave "inspiring and informative lectures." He is eager to study under Dr. Lee.

32. Respondent presented several letters in support of his application. All address his interest in nutrition; none address his proposed radiology practice.

a. Yzhar Charuzi, M.D., an internist and cardiologist, wrote, not a character reference letter, but a letter thanking respondent on behalf of the Cedars-Sinai Alumni Association for his December 2019 and January 2020 presentations on the impact of plant-based nutrition in the prevention and reversal of chronic diseases. (Ex. A, p. 20.)

b. Joel Fuhrman, M.D., wrote "a supportive recommendation" of respondent, who "has both the passion and the knowledge to enlighten and inspire people to make better food choices to prevent, improve and/or even reverse chronic diseases." (Ex. A, p. 22.)

c. Joel D. Feinstein, M.D., an internist and gastroenterologist, wrote that he has known respondent for over five years, and that, hearing respondent speak at Cedars-Sinai, he was impressed with respondent's depth of knowledge and ability to convey complex concepts regarding diet and health issues. (Ex. A, p. 27.)

d. In a June 15, 2020 letter, Dr. Gold reiterated that he found nothing in his physical examinations of respondent to prevent respondent from practicing medicine, and that respondent would "likely make an excellent impact on lifestyle

management" through his presentations on diet and lifestyle modification. (Ex. A, p. 14.)

LEGAL CONCLUSIONS

Applicable Law

1. The Medical Practice Act governs the rights and responsibilities of the holder of a physician's and surgeon's certificate. (Bus. & Prof. Code, §§ 2000 et seq.) The state's obligation and power to regulate the professional conduct of its health practitioners is well settled. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564; *Fuller v. Board of Medical Examiners* (1936) 14 Cal.App.2d at p. 741.)

2. Protection of the public is the highest priority for the Board in exercising its disciplinary authority and is paramount over other interests in conflict with that objective. (Bus. & Prof. Code, § 2001.1.)

3. If the Board determines that a physician's ability to practice is impaired due to mental or physical illness affecting competency, the Board may suspend the physician's right to practice. (Bus. & Prof. Code, § 822.) The Board shall not reinstate a suspended certificate "until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated." (*Ibid.*) The standard of proof upon the applicant for restoration of a suspended license is a preponderance of the evidence. (Evid. Code, § 115.)

4. The Board may issue a probationary physician's and surgeon's certificate subject to terms and conditions, including limiting the applicant's practice "to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon," and requiring the applicant to enroll in and successfully complete a clinical training program, comply with all provisions of the Medical Practice Act, and pay the costs of probation monitoring. (Bus. & Prof. Code, § 2221, subd. (a).) Moreover, the Board, in its sole discretion, may issue a probationary postgraduate training license to an applicant subject to similar terms and conditions. (Bus. & Prof. Code, §§ 2064. 5 and 2064.7.) The Board has adopted the Manual of Model Disciplinary Orders and Disciplinary Guidelines, 12th Edition, 2016 (Guidelines). (Cal. Code Regs., tit. 16, § 1361, subd. (a).) The Guidelines include model language for standard and optional conditions of probation.

5. An administrative law judge of the Medical Quality Hearing Panel is mandated, wherever possible, to take action that is calculated to aid in the rehabilitation of the licensee or, where due to a lack of continuing education or other reasons restricting the scope of practice is indicated, to order restrictions as supported by the evidence. (Bus. & Prof. Code, § 2229, subd. (b).) It is the intent of the Legislature that the enforcement program shall seek out those licensees who have demonstrated deficiencies in competency and then take those actions as are indicated, with priority given to those measures, including further education, restrictions on practice, or other means, that will remove those deficiencies. (Bus. & Prof. Code, § 2229, subd, (c).)

Issuing Probationary Certificate with Appropriate Restrictions

6. The purpose of a disciplinary action is not to punish, but to protect the public. (*Watson v. Superior Court* (2009) 176 Cal.App.4th 1407, 1416.) Outright denial

of respondent's Application to Restore License is unduly punitive under the circumstances of this case.

7. A preponderance of the evidence established that restoring respondent's physician's and surgeon's certificate under terms rendering it the equivalent of a probationary postgraduate training certificate is appropriate at this time, rather than granting full license restoration. Because respondent has not practiced medicine for over 22 years and has, as a result, developed and exhibited deficiencies in core clinical skills relating to his field of practice, restrictions on the scope of his practice are required to protect the public. Suitable probationary terms will require respondent's completion of post-graduate fellowship training to allow respondent to develop the skills and knowledge required in current practice. As for concerns about respondent's current cognitive abilities, although a PACE report recommended a neuropsychological FFDE, testimony from PACE's director, who is familiar with respondent's performance, weighs in favor of accepting the results of an independent neuropsychological examination in lieu of an FFDE. (Factual Findings 12, 18-23.)

ORDER

The Application to Restore License to Full, Active Status from Inactive, Disabled or Fee Exempt Status of respondent Sanford Stephen Weissbuch, M.D., is granted. Physician's and surgeon's certificate number G 37928 is fully restored and immediately revoked. Revocation is stayed, however, and the certificate is placed on five years' probation on the following terms and conditions.

1. Practice Limitations

Until respondent presents proof of satisfactory completion of a Board-approved postgraduate fellowship training program on a form approved by the Board, respondent's certificate, no. G 37928, shall be equivalent to a probationary postgraduate training license under Business and Professions Code sections 2064. 5 and 2064.7. Respondent may engage in the practice of medicine only in connection with his duties as a fellow at a Board-approved fellowship program, including its affiliated sites, or under those conditions as are approved in writing and maintained in respondent's file by the director of his program. The failure to successfully complete the Board-approved postgraduate fellowship training program shall be a violation of probation.

To satisfy the terms of probation, the fellowship program must comprise at least one year of neuroradiology and at least one year of either general radiology or a combination of subfields including body-imaging, musculoskeletal, or chest radiology. The fellowship program must be offered at a Board-approved accredited academic medical center.

Upon the successful completion of a board-approved postgraduate fellowship program and until the probation term ordered herein expires or is terminated, respondent's practice shall be limited to a supervised, structured environment where respondent's activities shall be supervised by another physician and surgeon.

2. Medical Recordkeeping Course

Within 60 calendar days of providing the Board proof of satisfactory completion of a Board-approved postgraduate fellowship training program, respondent shall enroll in a course in medical recordkeeping approved in advance by the Board or its

designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The medical recordkeeping course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical recordkeeping course taken after the acts that gave rise to the charges in the Statement of Issues, but prior to the effective date of the Decision, may, in the sole discretion of the Board or its designee, be accepted towards 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 not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. Professionalism Program (Ethics Course)

Within 60 calendar days of providing proof of satisfactory completion of a Board-approved postgraduate fellowship training program, respondent shall enroll in a professionalism program that meets the requirements of California Code of Regulations (CCR), title 16, section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully

complete the classroom component of the program not later than six months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Statement of Issues, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program 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 program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. Notification

Within seven days of the effective date of this Decision and throughout the term of probation, respondent shall provide a true copy of this Decision and the Statement of Issues to the program director of any postgraduate fellowship training program and to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to him, at any other facility where he engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier that extends malpractice insurance coverage to him. Respondent shall submit proof of

compliance to the Board or its designee within 15 calendar days. This condition shall apply to any changes in hospitals, other facilities, or insurance carrier.

5. Supervision of Physician Assistants

During probation, respondent is prohibited from supervising physician assistants.

6. Obey All Laws

Respondent shall obey all federal, state and local laws and all rules governing the practice of medicine in California, and shall remain in full compliance with any payments and other orders.

7. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

8. General Probation Requirements

Compliance with Probation Unit. Respondent shall comply with the Board's probation unit.

Address Changes. Respondent shall, at all times, keep the Board informed of his business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board

or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice. Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California. Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days. In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

9. Interview with the Board or Its Designee

Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

10. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period

of time respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If respondent resides in California and is considered to be in non-practice, respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a respondent residing outside of California, will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions

of probation: Obey All Laws; General Probation Requirements; and Quarterly Declarations.

11. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and deny the Application for a surgeon's and physician's certificate. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

12. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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13. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

14. Completion of Probation

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

DATE: 12/11/2020

Howard W. Cohen (Dec 11, 2020 09:42 PST)
HOWARD W. COHEN
Administrative Law Judge
Office of Administrative Hearings

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

In the Matter of the Statement of Issues Against: SANFORD STEPHEN WEISSBUCH, M.D. 2276 S. Beverly Glen Boulevard, Suite 202 Los Angeles, California 90064-2440 Physician's and Surgeon's Certificate G 37928, Applicant.	Case No. 800-2019-061178 **STATEMENT OF ISSUES**

PARTIES

1. Christine J. Lally (Complainant) brings this Statement of Issues solely in her official capacity as the Interim Executive Director of the Medical Board of California (Board).

2. On August 21, 1978, the Board issued Physician's and Surgeon's Certificate Number G 37928 to Sanford Stephen Weissbuch, M.D. (hereinafter, "the Applicant"). That license was valid and current at all times relevant to the charges brought herein and will expire on May 31, 2020, unless renewed. Dr. Weissbuch's license is now on inactive disabled status.

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3. On May 31, 2018, the Board received an application to restore Dr. Weissbuch's license from inactive disabled status to active unrestricted status. The Board denied the Application on August 26, 2019.

JURISDICTION

4. This Statement of Issues 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.

5. Section 2001.1 of the Code states:

> Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

6. Section 822 of the Code states:

> If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:
>
> (a) Revoking the licentiate's certificate or license.
>
> (b) Suspending the licentiate's right to practice.
>
> (c) Placing the licentiate on probation.
>
> (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.
>
> The licensing section shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

7. Section 2441, Subdivision (a) (1) of the Code states in pertinent part:

> (a) Any licensee who demonstrates to the satisfaction of the Board that he or she is unable to practice medicine due to a disability may request a waiver of the license renewal fee. The granting of a waiver shall be at the discretion of the Board and may be terminated at any time. Waivers shall be based on the inability of a licensee to practice medicine. A licensee whose renewal fee has been waived pursuant to this section shall not engage in the practice of medicine unless and until the licensee pays the current renewal fee and does either of the following:
>
> (1) Establishes to the satisfaction of the Board, on a form prescribed by the

Board and signed under penalty of perjury, that the licensee's disability either no longer exists or does not affect his or her ability to practice medicine safely.

(2) Signs an agreement on a form prescribed by the Board, signed under penalty of perjury, in which the licensee agrees to limit his or her practice in the manner prescribed by the reviewing physician and agreed to by the Board.

(b) The Board may require the licensee described in paragraph (2) of subdivision (a) to obtain an independent clinical evaluation of his or her ability to practice medicine safely as a condition of receiving a disabled status license under this section.

(c) Any person who knowingly provides false information in the agreement submitted pursuant to paragraph (2) of subdivision (a) shall be subject to any sanctions available to the Board.

CAUSE FOR DENIAL OF APPLICATION

(Inability to Demonstrate Ability to Practice Medicine Safely)

8. Applicant's Application is subject to denial under Code sections 822 and 2441, subdivision (a)(1), in that he has failed to demonstrate that he can practice medicine safely and because his fund of medical knowledge was found to be outdated. The circumstances are as follows.

9. On July 25 and August 8, 2017, Applicant underwent a Comprehensive Neuropsychological Evaluation, which was conducted by a licensed clinical neuropsychologist. On May 31, 2018, the Board received the result, a Comprehensive Neuropsychological Evaluation report (hereinafter, "the Evaluation"). The Evaluation provided background information regarding the Applicant's medical health condition as follows:

A. In November 1997, the Applicant reported that he was ill with flu symptoms that included high fever. The Applicant fully recovered; however, soon after, he began to have problems with his concentration, focusing, and memory, which interfered with his work. After consulting a neurologist, Applicant underwent a magnetic resonance imaging (MRI) scan of the brain that detected that he had a febrile disease[1].

[1] Acute febrile illness is the medical term used to describe a sudden fever or elevation in body temperature. This happens when the body is invaded by a pathogen and the immune system is activated to fight it off.

B. In October 1998, the Applicant underwent an independent medical examination by an independent licensed clinical neuropsychologist. The results of the medical examination indicated that the Applicant was functioning in the high average range of general intellectual ability. Applicant's verbal and perceptual reasoning abilities were equally developed, falling in the high average range. In contrast, Applicant evidenced impairment in the speed of processing, attention, verbal and nonverbal learning, memory, and frontal/executive functions. The clinical neuropsychologist found that Applicant was suffering from symptoms of depression secondary to the effects of his febrile incident.

C. The Evaluation revealed that Applicant had demonstrated superior verbal comprehension skills and above-average perceptual reasoning abilities. However, the Applicant evidenced a deficit in executive function, as reflected in his performances on tests of verbal fluency, working memory, and inhibitory controls. The Applicant demonstrated some difficulty memorizing information requiring semantic processing. However, the Applicant was able to memorize and learn new information. Although Applicant's abilities were lower than expected, given his overall functional level, these abilities are still within the average range, with a few exceptions.

D. As a result of the Applicant's cognitive deficits since 1998, Applicant has not practiced medicine, nor has he operated a motor vehicle. The Applicant reported that with "super nutrition and exercise," he has achieved improvement in his cognition. However, Applicant continues to have issues with multitasking and mental sharpness, which occurs when he feels tired.

E. Based on the findings of the Evaluation, it was recommended that the Applicant undergo a driving evaluation to determine whether he was cognitively fit to operate a motor vehicle. In regards to whether Applicant was fit to resume his vocation as a physician, Applicant's clinical neuropsychologist left this determination to the Board. It was recommended that the Applicant should participate in a re-entry program where his abilities to successfully and safely practice medicine would be assessed, which would be helpful in determining his readiness to resume practice. As a result of the Applicant's clinical neuropsychologist's recommendation.

On August 15, 2018, the Board informed Applicant that he was required to undergo an independent assessment as well as a current medical evaluation.

F. On January 15, 2019, the Board received a report from the University of California San Diego Physician Assessment and Clinical Education (PACE) Program. Based on PACE's evaluation, it was reported that the Applicant's overall performance was unsatisfactory. During the assessment of the physical examination, there were no findings that would preclude the Applicant from practicing medicine safely. In addition, the Applicant's performance on PACE's assessment of cognitive functioning (Micro cognitive) indicated that further neuropsychological evaluation was required. During the neuroradiology assessment, the Applicant demonstrated somewhat outdated medical knowledge. The Applicant's knowledge of brain anatomy and physiology was deficient for a neuroradiologist. Although Applicant was familiar with some of the terms related to newer technology in the field, such as diffusion-weighted imaging or susceptibility-weighted imaging, he was unfamiliar with the scans and, therefore, was unable to interpret the images adequately.

G. PACE commented that neuroradiology and general radiology have changed significantly in the last 20 years since the Applicant had been out of practice. As a result of these significant changes, it was the view of PACE that the Applicant would have to relearn how to be a radiologist/neuroradiologist, and until such time, was not currently safe to practice independently. PACE recommended that Applicant participate in a minimum of two (2) years of fellowship training to learn how to integrate new imaging technologies, new imaging findings, and new diseases/diagnoses.

H. Furthermore, PACE reported that there were still some concerns regarding Applicant's cognitive functioning as demonstrated by his performance on the Micro Cognitive, MoCA, and previous neuropsychological testing. It was recommended by PACE that the Applicant should undergo an additional neuropsychological evaluation to rule out any potential cognitive impairment that could affect his ability to practice followed by formal training in radiology.

I. Overall, the Applicant's performance on the comprehensive physician assessment conducted by PACE was consistent with a "Category 4 - fail". The following were recommended by PACE: Neuropsychological evaluation, participate in fellowship or residency training, Audiology evaluation, and undergo an eye exam.

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. Denying the Application of Sanford Stephen Weissbuch, M.D. to restore a Physician's and Surgeon's Certificate from inactive disabled status to active unrestricted status; and

2. If issued a probationary license, ordering Applicant to pay the Board the costs of probation monitoring;

3. If placed on probation, suspending or denying approval of Applicant's authority to supervise physician assistants and advanced practice nurses; and

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

DATED: MAR 30 2020

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

Complainant

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