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

In the Matter of the Accusation Against:	)	
BELL CHYUR LAIW, M.D.	)	**Case No. 800-2015-016344**
Physician's and Surgeon's Certificate No. A30756	)	
Respondent	)	

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 April 16, 2019

IT IS SO ORDERED April 9, 2019 .

MEDICAL BOARD OF CALIFORNIA

By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
EDWARD KIM
Deputy Attorney General
State Bar No. 195729
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6000
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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: **BELL CHYUR LAIW, M.D.** Physician's and Surgeon's, Certificate No. A 30756 Respondent.	Case No. 800-2015-016344 OAH No. 2018090371 **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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Edward Kim, Deputy Attorney General.

2. Bell Chyur Laiw, M.D. (Respondent) is represented in this proceeding by attorney Michael D. Gonzalez, whose address is: 101 N. Brand Boulevard, Suite 1880, Glendale, CA 91203.

3. On or about February 23, 1977, the Board issued Physician's and Surgeon's Certificate No. A 30756 to Bell Chyur Laiw, 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. 800-2015-016344 and will expire on January 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-016344 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 June 29, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2015-016344 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. 800-2015-016344. 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. 800-2015-016344, 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. This stipulation encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written.

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. A 30756, issued to Respondent Bell Chyur Laiw, M.D., is surrendered and that surrender is 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. 800-2015-016344 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. 800-2015-016344 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. 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: _____ _____

BELL CHYUR LAIW, M.D.
Respondent

I have read and fully discussed with Respondent Bell Chyur Laiw, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I

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.

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DATED: 3/3/2019

BELL CHYUR LAIW, M.D.
Respondent

I have read and fully discussed with Respondent Bell Chyur Laiw, 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: 3-8-19

MICHAEL D. GONZALEZ
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:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

EDWARD KIM
Deputy Attorney General
Attorneys for Complainant

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approve its form and content.

DATED: _____ _____
MICHAEL D. GONZALEZ
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:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

EDWARD KIM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-016344

XAVIER BECERRA
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 29 2018
BY: ANALYST

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

In the Matter of the Accusation Against: **BELL C. LAIW, M.D.** **43851 Old Harbour Dr.** **Bermuda Dunes, CA 92203-1630** **Physician's and Surgeon's Certificate No. A30756,** **Respondent.**	Case Nos. 800-2015-016344 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about February 23, 1977, the Medical Board issued Physician's and Surgeon's Certificate Number A30756 to Bell C. Laiw, 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 January 31, 2019, 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:

"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.

"..."

6. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

7. Section 2261 of the Code states: "Knowingly making or signing any certificate or

other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he committed gross negligence. Each of Respondent's actions and/or omissions described herein, individually, collectively, or in any combination thereof, constitutes an extreme departure from the standard of care. The circumstances are as follows:

Patient A

9. On or about March 25, 2014, Respondent saw Patient A,[1] a 13-year-old female with a complaint of a three day old sore throat and one day of fever. During the visit, Respondent poked the patient's lower stomach and breast and stated, "Don't be kissing boys." Respondent's chart note for the visit included a notation regarding a pelvic and a rectal examination. However, when interviewed by an Health Quality Investigations Unit ("HQIU") investigator, he admitted that he did not perform a pelvic or rectal examination.

10. On or about March 25, 2014, and thereafter, Respondent committed gross negligence when he documented that he performed a pelvic and a rectal examination on Patient A when he did not in fact perform such examinations.

Patient B

11. On or about May 25, 2016, Respondent saw Patient B, a 17-year-old female with a complaint of head trauma after a car accident. During the visit, Respondent told the patient that she was "huge" and emphasized the word with his hands. Respondent's chart note for the visit included a notation regarding a pelvic and a rectal examination. However, when interviewed by an HQIU investigator, he admitted that he did not perform a pelvic or rectal examination.

12. On or about May 25, 2016, Respondent committed gross negligence when he documented that he performed a pelvic and a rectal examination on Patient B when he did not in fact perform such examinations.

[1] Patient initials are used based on privacy concerns.

Patient C

13. On or about August 22, 2013, Respondent began seeing Patient C, a 12-year-old female and he continued to see her until on or about October 2015. During this time, Respondent poked Patient C in her pubic area over her clothes. In addition, his medical records for his patient encounters with Patient C failed to accurately reflect the actual examinations Respondent performed on Patient C, and he conflated the patient's review of systems with his physical examinations of her.

14. On or about August 22, 2013 and thereafter (including, without limitation, on or about October 1, 2015), Respondent committed gross negligence when he documented that he performed a genitalia and a rectal examination on Patient C (reporting normal findings) when he did not in fact perform such examinations.

15. On or about August 22, 2013 and thereafter, Respondent committed gross negligence when he poked Patient C in the pubic area.

Patient D

16. Beginning on or about August 1, 2013, Respondent began seeing Patient D, a 13-year-old female and he continued to see her until in or around November 2015. During this time, Respondent grabbed Patient D's breasts and uttered the words, "these are hamburgers." Respondent admitted to saying the word "hamburgers" but alleges that the context related to teaching the patient about healthy eating habits. In addition, his medical records for his patient encounters with Patient D failed to reflect accurately the actual examinations Respondent performed on Patient D, and he conflated the patient's review of systems with his physical examinations of her.

17. On or about August 1, 2013 and thereafter (including, without limitation, on or about January 5, 2015, May 11, 2015, and November 10, 2015), Respondent committed gross negligence when he documented that he performed a genitalia examination on Patient D when he did not in fact perform such examination.

18. On or about August 1, 2013, and thereafter, Respondent was grossly negligent when he grabbed Patient D's breasts without a medical indication.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

19. Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that Respondent committed repeated negligent acts. Each of Respondent's actions and/or omissions described herein, individually, collectively, or in any combination thereof, constitutes a departure from the standard of care. The circumstances are as follows:

20. The allegations of the First Cause for Discipline are incorporated herein by reference as if fully set forth.

21. Each of the alleged acts of gross negligence set forth above in the First Cause for Discipline is also a negligent act.

Patient B

22. On or about May 25, 2016, Respondent attempted to obtain the patient's drug and/or sexual history in the presence of the Patient B's mother. The failure to maintain patient privacy constitutes negligence.

Patient E

23. On or about March 7, 2016, Respondent saw Patient E, a three-year-old male for a routine physical examination. Respondent expressed concerns about the patient's hearing and attempted to perform a hearing test. However, Respondent was only able to complete the examination of the right ear because of the child's failure to cooperate. Respondent struggled with the patient during his attempt to perform the hearing test and the patient was negatively affected by the experience.

24. On or about March 7, 2016, Respondent was negligent when he continued to attempt to perform a hearing test on Patient E despite the child's failure to cooperate.

THIRD CAUSE FOR DISCIPLINE

(Misrepresentations and Failure to Maintain Adequate Medical Records)

25. Respondent is subject to disciplinary action under Code sections 2261 and 2266 in that Respondent knowingly made or signed a certificate or other document directly or indirectly related to the practice of medicine which falsely represented the existence or nonexistence of a

state of facts, and Respondent failed to maintain adequate and accurate records related to the provision of medical services to a patient. The circumstances are as follows:

26. The allegations of the First and Second Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth.

27. Respondent failed to adequately document his medical care for the patients.

FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

28. Respondent is subject to disciplinary action under Code section 2234, in that his actions and/or omissions represent unprofessional conduct, generally. The circumstances are as follows:

29. The allegations of the First, Second and Third Causes for Discipline are incorporated herein by reference as if fully set forth.

DISCIPLINE CONSIDERATIONS

30. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that that effective on or about January 5, 2004, in a prior disciplinary action entitled, *In the Matter of the Accusation Against Bell C. Laiw, M.D.* before the Medical Board of California, in Case No. is 18-1999-098805, Respondent's license was revoked, the revocation was stayed and Respondent was placed on probation for three year with terms and conditions. That decision is final and is incorporated by reference as if fully set forth. Respondent completed probation in 2006.

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 A30756, issued to Bell C. Laiw, M.D.;

2. Revoking, suspending or denying approval of Bell C. Laiw, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Bell C. Laiw, 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: June 29, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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