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

In the Matter of the Accusation Against:	)	
ROSALINDA MARIA MENONI, M.D.	)	Case No. 800-2015-015120
Physician's and Surgeon's Certificate No. G59780	)	
Respondent	)	

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 May 2, 2018.

IT IS SO ORDERED April 2, 2018.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson

Kristina Lawson, JD, Chair
Panel B

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
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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: **ROSALINDA MARIA MENONI, M.D.** **4041 Aladdin Drive** **Huntington Beach, California 92649** **Physician's and Surgeon's Certificate No. G59780,** Respondent.	Case No. 8002015015120 OAH No. 2017090665 **STIPULATED SETTLEMENT AND DISCIPLINARY 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. 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, and by Joseph F. McKenna III, Deputy Attorney General.

2. Respondent Rosalinda Maria Menoni, M.D., is represented in this proceeding by attorney Jason E. Gallegos, Esq., whose address is: 41-990-F Cook Street, Suite 2004, Palm Desert, California, 92211.

3. On or about March 23, 1987, the Medical Board of California issued Physician's and Surgeon's Certificate No. G59780 to Rosalinda Maria Menoni, 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. 800-2015-015120, and will expire on September 30, 2018, unless renewed.

JURISDICTION

4. On July 25, 2017, Accusation No. 800-2015-015120 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. On July 25, 2017, a true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent by certified mail at her address of record on file with the Board. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2015-015120 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with her counsel, and understands the charges and allegations in Accusation No. 800-2015-015120. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 800-2015-015120; 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, having been fully advised of same by her attorney of record, Jason E. Gallegos, Esq.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2015-015120, and that she has thereby subjected her Physician's and Surgeon's Certificate No. G59780 to disciplinary action.

9. Respondent agrees that if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2015-015120 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding, or any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that she may not withdraw her agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value

whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND.

IT IS HEREBY ORDERED that Respondent Rosalinda Maria Menoni, M.D., Physician's and Surgeon's Certificate No. G59780, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a), subsection (4). This Public Reprimand, which is issued in connection with the allegations as set forth in Accusation No. 800-2015-015120, is as follows:

> Respondent committed gross negligence and repeated negligent acts in her care and treatment of patient R.G. from July 27, 2010, through August 3, 2010, as more fully described in Accusation 800-2015-015120, a true and correct copy of which is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

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2. MEDICAL RECORDS KEEPING COURSE.

Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping 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 record keeping course taken after the acts that gave rise to the charges in Accusation No. 800-2015-015120, 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 fifteen (15) calendar days after successfully completing the course, or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

3. FAILURE TO COMPLY.

Any failure by Respondent to comply with the terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and grounds for further disciplinary action.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jason E. Gallegos, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G59780. 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: 2/7/18 Rosalinda Maria Menoni, M.D.

ROSALINDA MARIA MENONI, M.D.
Respondent

I have read and fully discussed with Respondent Rosalinda Maria Menoni, 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: 2/6/18

JASON E. GALLEGOS, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: February 8, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 8002015015120

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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: **Rosalinda Maria Menoni, M.D.** **4041 Aladdin Drive** **Huntington Beach, California 92649** **Physician's and Surgeon's Certificate No. G 59780,** Respondent.	Case No. 800-2015-015120 **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, and not otherwise.

2. On or about March 23, 1987, the Medical Board issued Physician's and Surgeon's Certificate No. G59780 to Rosalinda Maria Menoni, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges and allegations brought herein and will expire on September 30, 2018, unless renewed.

JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, 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, be publicly reprimanded which may include a requirement that the licensee complete relevant educational courses, or have 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:

"...

"(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.

"..."

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."

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent has subjected her Physician's and Surgeon's Certificate No. G59780 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in her care and treatment of patient R.G., as more particularly alleged hereinafter:

8. Patient R.G.

(a) On or about July 27, 2010, Patient R.G. presented to Desert Regional Medical Center (DRMC) complaining of pain in his shoulder and neck with loss of strength in his arm. At DRMC, a physical examination was performed which noted the patient had posterior cervical tenderness. No comprehensive neurological examination was documented on that date, but the record indicated the presumption at the time was that patient R.G. had suffered a transient ischemic attack/cerebrovascular accident. A computed tomography (CT) scan of patient R.G.'s head was performed.

(b) On or about July 28, 2010, a magnetic resonance imaging (MRI) and a magnetic resonance angiogram (MRA) were both performed of the brain, and an MRI of the spine. On that same date, a CT of the patient's cervical spine was performed. The CT history in the report documented a number of issues including, bilateral upper extremity weakness, multi-level degenerative disease, foraminal narrowing, and central stenosis.

(c) On or about July 29, 2010, at DRMC, a neurosurgery consult was performed that provided an initial evaluation of patient R.G., which is documented in a handwritten note. The handwritten note indicated that Respondent discussed the evaluation with another physician and she co-signed the note with the other physician. The note documented a number of things including, pain levels, physical history, and the patient's reason(s) for consultation. The note also documented the findings of the MRI of the cervical spine. The note does not

document any recent trauma or fall as the precipitous event which caused patient R.G. to be admitted on or about July 27, 2010.

(d) On or about July 30, 2010, patient R.G. was seen by Respondent and no significant change in the patient's condition was documented. No new recommendations were made at this point by Respondent. On this same date, Respondent documented an addendum to the history and physical of patient's record. Respondent charted that patient R.G.'s admitting complaints (not previously noted in the record) included gait abnormality and leg weakness. Respondent also documented additional findings regarding patient R.G.'s then existing condition; however, the record is unclear whether any further testing had been performed on the patient leading Respondent to document these additional findings. Lastly, as of July 30, 2010, no discussion of surgery had been documented in the record for this patient.

(e) On or about July 31, 2010, a handwritten note drafted by Respondent indicated that patient R.G. was being treated for spinal cord swelling. Among other things, the note and/or record up until this date (July 31, 2010) did not clearly document that Respondent had a thorough discussion with the patient and/or his family about the associated potential risks and complications of surgery, or whether an alternative to surgery could be considered.

(f) On or about August 1, 2010, Respondent, in a pre-operative note, documented that patient R.G. had a history of acute-chronic cervical stenosis post fall with cord contusion and marked weakness in bilateral upper extremities. However, after being admitted at DRMC and up until August 1, 2010, there had been no prior entry in the patient's record regarding an immediately antecedent fall or any radiographic signs of obvious acute findings and/or acute stenosis.

(g) On or about August 1, 2010, Respondent, in an operative report, documented the indications for surgery and reason for hospital admission several days earlier. Respondent, in the report, also documented that the surgery had been

previously discussed with patient R.G. and his family on or about July 31, 2010, and also included a list of the potential risks and complications that she had discussed with them. The list was inadequate and failed to include all of the risks of nerve and/or spinal cord injury, worsening of patient's condition, and cerebrovascular accident or a detailed discussion of proceeding with surgery despite controversy.

(h) Regarding the surgery performed on August 1, 2010, Respondent documented in her report that the surgery had no complications and no unexpected or unanticipated events were noted. Respondent documented that motor evoked potentials had been lost during positioning of patient R.G.'s neck, but she blamed this on the anesthesia. Immediately following surgery, patient R.G. was noted to be worse off neurologically and with marked weakness in all four (4) extremities. On the same date, a lumbar drain was placed on the patient, but without any immediate improvement.

(i) On or about August 2, 2010, no changes were noted to have occurred overnight. Respondent documented potential cord ischemia and a plan for an MRI of the cervical spine to determine need for additional posterior surgery. MRI's of the cervical spine and brain were performed that same day and Respondent documented her impression of the findings in the record. Patient R.G. required intubation and a motor examination revealed minimal movement in all four (4) of his extremities.

(j) On or about August 3, 2010, Respondent performed a second surgery on patient R.G. Spinal cord compression is listed under pre-operative diagnosis. The report further indicated that the risks and potential complications had been discussed with the patient's family. However, there is no indication in the record when this particular discussion with the patient's family specifically occurred; and the patient himself later reported that he did not recall a pre-operative discussion with Respondent about the risks and potential complications of the surgery.

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(k) On or about March 16, 2016, Respondent was interviewed at the California Medical Board's San Bernardino Office, with her attorney present, regarding the care and treatment she had provided to patient R.G. During the subject interview, Respondent acknowledged that performing a surgery when a patient's condition is worsening can result in a worse outcome. She further acknowledged that a controversy existed in the neurosurgery literature regarding acute versus delayed surgery.

(l) Respondent committed gross negligence in her care and treatment of patient R.G., which included, but was not limited to, the following:

(1) Respondent failed to provide an appropriately comprehensive list of the potential risks and/or complications including, but not limited to, documenting a detailed discussion of the controversy regarding the timing of surgery versus alternatives, prior to the surgery performed on or about August 1, 2010;

(2) Respondent, by her interpretation of patient R.G.'s motor evoked potentials during surgery on or about August 1, 2010, incorrectly concluded that the loss of the patient's signals was related to anesthesia and thus continued with the surgical procedure, without first appropriately considering the context, medical condition and/or stopping the procedure to investigate further and correct the loss of the signal; and

(3) Respondent failed to appropriately consider the patient's history and physical examination, the results of diagnostic studies, and/or the course of a disease process, before making a diagnosis of acute spinal cord contusion secondary to a fall and recommending surgical decompression of patient R.G.'s spine.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

9. Respondent has further subjected her Physician's and Surgeon's Certificate No. G59780 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in her care and treatment of patient R.G., as more particularly alleged hereinafter:

10. **Patient R.G.**

(a) Paragraphs 7 and 8, above, are hereby incorporated by reference and realleged as if fully set forth herein.

(b) Respondent committed repeated negligent acts in her care and treatment of patient R.G., which included, but was not limited to, the following:

(1) Respondent failed to provide an appropriately comprehensive list of the potential risks and/or complications including, but not limited to, documenting a detailed discussion of the controversy regarding the timing of surgery versus alternatives, prior to the surgery performed on or about August 1, 2010;

(2) Respondent, by her interpretation of patient R.G.'s motor evoked potentials during surgery on or about August 1, 2010, incorrectly concluded that the loss of the patient's signals was related to anesthesia and thus continued with the surgical procedure, without first appropriately considering the context, medical condition and/or stopping the procedure to investigate further and correct the loss of the signal;

(3) Respondent failed to appropriately consider the patient's history and physical examination, the results of diagnostic studies, and/or the course of a disease process, before making a diagnosis of acute spinal cord contusion secondary to a fall and recommending surgical decompression of patient R.G.'s spine; and

(4) Respondent failed to obtain a stat MRI of patient R.G.'s cervical spine on or about August 1, 2010.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

11. Respondent has further subjected her Physician's and Surgeon's Certificate No. G59780 to disciplinary action under sections 2227 and 2234, as defined in section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records in connection with her care and treatment of patient R.G., as more particularly alleged in Paragraphs 7, 8, 9, and 10, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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 No. G59780, issued to Respondent Rosalinda Maria Menoni, M.D.;

2. Revoking, suspending or denying approval of Respondent Rosalinda Maria Menoni, M.D.'s, authority to supervise physician assistants and/or advanced practice nurses;

3. Ordering Respondent Rosalinda Maria Menoni, M.D., to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and

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

DATED: July 25, 2017

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

SD2017705320
Doc.No.81737156