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

In the Matter of the Accusation Against: **Michael Alexander Giuffrida, M.D.** Physician's and Surgeon's Certificate No. G 89167 Respondent.	Case No: 800-2018-044554

ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "CERTIFICATE NO." PORTION OF DECISION

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the "Certificate No." on the Order Page of the Decision in the above-entitled matter and that such clerical error should be corrected so that the Certificate No. will conform to the Board's issued license.

IT IS HEREBY ORDERED that the license number contained on the Order Page of the Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as G 89167.

September 13, 2022

Laurie Rose Lubiano, J.D.
Chair, Panel A

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

In the Matter of the Accusation Against: Michael Alexander Giuffrida, M.D. Physician's and Surgeon's Certificate No. G 89168 Respondent.	Case No.: 800-2018-044554

DECISION

The attached Stipulation 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 August 26, 2022.

IT IS SO ORDERED: July 28, 2022.

MEDICAL BOARD OF CALIFORNIA

Laurie Rose Lubiano, J.D., Chair
Panel A

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
VLADIMIR SHALKEVICH
Deputy Attorney General
State Bar No. 173955
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6538
Facsimile: (916) 731-2117
Attorneys for Complainant

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

In the Matter of the Accusation Against: MICHAEL ALEXANDER GIUFFRIDA, M.D. 3091 Calle Rosales Santa Barbara, CA 93105-2844 Physician's and Surgeon's Certificate G 89167, Respondent.	Case No. 800-2018-044554 OAH No. 2021100335 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Vladimir Shalkevich, Deputy Attorney General.

2. Respondent Michael Alexander Giuffrida, M.D. (Respondent) is represented in this proceeding by attorney Derek O'Reilly-Jones, of Bonne, Bridges, Muller, O'Keefe Nichols, 355 South Grand Avenue, Suite 1750, Los Angeles, CA 90071.

3. On June 18, 2012, the Board issued Physician's and Surgeon's Certificate No. G 89167 to Michael Alexander Giuffrida, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-044554, and will expire on June 30, 2022, unless renewed.

JURISDICTION

4. The Accusation and all other statutorily required documents were properly served on Respondent on May 26, 2021. Respondent filed a timely Notice of Defense contesting the Accusation. A First Amended Accusation in Case No. 800-2018-044554 was filed before the Board on April 29, 2022, and is currently pending against Respondent.

5. A copy of the First Amended Accusation in Case No. 800-2018-044554 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation in Case No. 800-2018-044554. He has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including his right to a hearing on the charges and allegations in the First Amended Accusation; his right to confront and cross-examine the witnesses against him; his right to present evidence and to testify on his own behalf; his right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; his right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

///

///

///

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in the First Amended Accusation No. 800-2018-044554, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations in First Amended Accusation No. 800-2018-044554. Respondent hereby gives up his right to contest the charges and allegations in First Amended Accusation No. 800-2018-044554 and agrees that he has thereby subjected his Physician's and Surgeon's Certificate, No. G 89167 to disciplinary action.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or 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 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2018-044554 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.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. G 89167 issued to Respondent Michael Alexander Giuffrida, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. USE OF VASER PROHIBITED. During the period of probation Respondent shall not utilize Vaser technology while performing liposuction procedures.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice, and include, but not be limited to courses concerning patient communication, and shall be Category I certified.

The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping 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 (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 the Accusation, 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.

4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) 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 (6) 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 (1) 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 Accusation, 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.

5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent 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 which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in this matter, in the amount of $20,000 (twenty thousand dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by respondent to the Board.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs, including expert review costs (if applicable).

10. 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.

11. 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 Respondent's 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 thirty (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.

12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

13. 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 Boards'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 (2) 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; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

14. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, 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.

15. 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 carry out the disciplinary order that was stayed. 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.

16. 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 or her 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.

17. 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.

18. FUTURE ADMISSIONS CLAUSE. 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 action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-044554 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 license.

ACCEPTANCE

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

DATED: 6.8.22

MICHAEL ALEXANDER CIUFFRIDA, M.D.
Respondent

I have read and fully discussed with Respondent Michael Alexander Giuffrida, 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: 06/08/2022

DEREK O'REILY-JONES, 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: June 9, 2022

Respectfully submitted,

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

Electronically Signed

VLADIMIR SHALKEVICH
Deputy Attorney General
Attorneys for Complainant

LA2021601899
65178750.docx

Exhibit A

Accusation No. 800-2018-044554

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
VLADIMIR SHALKEVICH
Deputy Attorney General
State Bar No. 173955
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 269-6538
Facsimile: (916) 731-2117
Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: MICHAEL ALEXANDER GIUFFRIDA, M.D. 3091 Calle Rosales Santa Barbara, CA 93105-2844 Physician's and Surgeon's Certificate No. G 89167, Respondent.	Case No. 800-2018-044554 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On June 8, 2012, the Board issued Physician's and Surgeon's Certificate Number G 89167 to Michael Alexander Giuffrida, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2024, unless renewed.

///

JURISDICTION

3. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically

appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 2262 of the Code states:

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars ($500) for a violation of this section.

7. Title 16, California Code of Regulations, section 1356.6, states, in pertinent part:

...

(b) The following standards apply to any liposuction procedure not required by subsection (a) to be performed in a general acute-care hospital or a setting specified in Health and Safety Code Section 1248.1:

(3) Monitoring. The following monitoring shall be available for volumes greater than 150 and less than 2,000 cubic centimeters of total aspirate and shall be required for volumes between 2,000 and 5,000 cubic centimeters of total aspirate:

(A) Pulse oximeter
(B) Blood pressure (by manual or automatic means)
(C) Fluid loss and replacement monitoring and recording
(D) Electrocardiogram

(4) Records. Records shall be maintained in the manner necessary to meet the standard of practice and shall include sufficient information to determine the quantities of drugs and fluids infused and the volume of fat, fluid and supranatant extracted and the nature and duration of any other surgical procedures performed during the same session as the liposuction procedure....

///

COST RECOVERY

8. Effective on January 1, 2022, section 125.3 of the Code provides:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.
(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.[1]

FACTUAL ALLEGATIONS

9. In his interview with the Board's investigators, Respondent claimed that he was an employee of Elite MD. Patient 1,[2] a 52-year-old woman, consulted with Elite MD in Danville, California, regarding liposuction of her abdomen, on or about April 18, 2018.

10. Patient 1 weighed 121 pounds, and had a BMI of 22. Patient 1 was initially seen by "Vanessa," a Patient Care Coordinator employed by Elite MD, on April 18, 2018. Vanessa completed a "Plastic Surgery Consult Form" and provided Patient 1 with a treatment plan and a fee. The anticipated use of Vaser technology was not noted.

11. Patient 1 returned to Elite MD on the following day, April 19, 2018, for a pre-operative visit. At this visit, Patient 1 met with "Ivy," a medical assistant employed by Elite MD. Patient 1 signed consent forms for surgery as well as an arbitration agreement, and paid for her surgery with a check made out to Vivek Bansal, M.D., the owner of Elite MD. Patient 1 then received her post-operative prescriptions for alprazolam #5 and acetaminophen with oxycodone 5/325 mg #15,[3] prescribed by Malcolm Lesavoy, M.D., an itinerant plastic surgeon working at Elite MD. Patient 1 never met and was never examined by Dr. Lesavoy. The Pre-Operative Visit Form lists the "clinical staff" at the visit as Respondent and Ivy. Respondent was not present and did not see Patient 1 during this visit, however, Respondent electronically signed this form on May 22, 2018. Patient 1's "Liposuction Consent Form" listed the possibility of scars (minor) and

[1] Effective January 1, 2022, subdivision (k) of Section 125.3, which exempted physicians and surgeons from seeking recovery of the costs of investigation and prosecution by the Board, was repealed.

[2] The patient is identified by number in this Accusation for privacy concerns.

[3] Alprazolam is a benzodiazepine and anxiolytic; oxycodone is an opiate narcotic. Both are dangerous drugs and controlled substances.

skin loss as possible complications. The consent form did not mention the use of Vaser technology and did not describe the possibility that the patient could sustain burns as a result of the operation. Respondent did not sign the Liposuction Consent Form until May 22, 2018, well after the surgery.

12. Patient 1 presented to Elite MD once again, on April 22, 2018. On this day, a history and physical exam were documented, but neither Respondent nor any other licensed medical professional saw Patient 1 that day. Patient 1 did not speak with Respondent. Respondent did, however, sign the history and physical form dated April 22, 2018, well after the surgery, on May 22, 2018.

13. Patient 1 returned to Elite MD for her surgery on April 24, 2018. She met Respondent on that day for the first time. Respondent obtained Patient 1's history and examined her for the first time. Patient 1 was taken into the operating room where Respondent performed liposuction of the anterior abdomen using Vaser (ultrasound) technology and tumescent anesthesia. Respondent did not document the amount of tumescent fluid infiltrated during the procedure. Respondent's procedure note described the use of Vaser as follows: "[f]or fibrous areas, external ultrasound was applied for several minutes." The "fibrous" area of Patient 1's body on which Respondent used Vaser, the length of time during which Vaser was used, or the power setting with which Vaser was applied, were not described in Respondent's procedure note. Respondent's procedure note documented that the amount of fat solute removed was 2200 cc. The procedure note reported no complications. However, during this procedure Patient 1 suffered a large full skin thickness burn on the right side of her abdomen. At the conclusion of the surgery, Patient 1's wounds were covered with absorbent gauze pads and elastic support garments to hold them in place. Patient 1 was given wound care, post-operative instructions and dressings. She was discharged home after her surgery. Respondent did not contact Patient 1 after the surgery.

14. Patient 1 returned to the clinic one day later, on April 25, 2018, where she was seen by Dr. Bansal. After the dressing was removed, the patient was noted to have blisters on the left side of her abdomen. Dr. Bansal's diagnosis was "traction dermatitis." The patient was advised

to discontinue the binder. She was seen again by Dr. Bansal on April 27 where he noted that the "blister is getting bigger." He advised the patient to open the blister by herself in the shower. His notes are illegible, but there is mention of HBO (hyperbaric oxygen) and antibiotic ointment. The patient was then seen again on May 2, 2018, by Dr. Bansal and his wife, Dr. Badreshia, who examined the wound. Dr. Badreshia recommended leaving the wound open to the air. Again, there is mention of HBO in the medical record, and Dr. Bansal noted that he will contact the patient's primary care physician at Kaiser. He prescribed moxifloxacin, an oral antibiotic, and "antibiotic ointment" to the wound twice daily.

15. Patient 1 was finally seen post-operatively by Respondent on May 8, 2018. Respondent documented in his note for that day that this is his "first notification" of her injury. Respondent noted an 8 x 12 cm eschar in the left lower abdomen, and recommended silver sulfadiazine (SSD) cream. No SSD cream was available at the Elite MD clinic, so Respondent wrote a prescription for the cream and gave the prescription to the patient so she could obtain the cream at a pharmacy. The patient was given no instructions on how to use the cream. Patient 1 went to the pharmacy, obtained the SSD cream, and returned to Elite MD for instructions on how to use the SSD cream. She was placed in an exam room. After waiting several minutes, she left the exam room to inquire when Respondent was going to see her. She was informed that Respondent had left the clinic, as he had a plane to catch. One of the unlicensed medical assistants showed Patient 1 how to use the SSD cream. Respondent did not contact and did not follow up on Patient 1 after this visit. After this visit, Patient 1 did not return to Elite MD.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

16. Respondent Michael Alexander Giuffrida, M.D. is subject to disciplinary action under section 2234, subdivision (b) of the Code, in that he was grossly negligent in his care and treatment of Patient 1. The circumstances are as follows:

17. The allegations of paragraphs 9 through 15 are incorporated herein by reference.

18. Each of the following was an extreme departure from the standard of care:

A) Respondent's creation of a full thickness burn on Patient 1's abdomen following Vaser liposuction represents an extreme departure from the standard of care.

B) Respondent's failure to provide follow-up on a patient with a serious complication represents an extreme departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

19. Respondent Michael Alexander Giuffrida, M.D. is subject to disciplinary action under section 2234, subdivision (c) of the Code in that he committed repeated acts of negligence in his care and treatment of Patient 1. The circumstances are as follows:

20. The allegations of paragraphs 9 through 15 are incorporated herein by reference.

21. Each of the following was a departure from the standard of care:

A) Respondent's creation of a large full thickness burn on Patient 1's abdomen during Vaser liposuction represents a departure from the standard of care.

B) Respondent's failure to provide follow-up on a patient with a serious complication represents a departure from the standard of care.

C) Respondent signing of the Pre-Operative Visit and Liposuction Consent forms of April 19, 2018 made it appear that he examined Patient 1 on that day, when, in fact, he did not. This was an error in documentation and represents a simple departure from the standard of care.

D) Respondent's failure to appropriately document the surgical procedure he performed on Patient 1 was a departure from the standard of care.

E) Respondent's failure to provide adequate instruction to Patient 1 for his recommended wound care with SSD cream represents a simple departure from the standard of care.

THIRD CAUSE FOR DISCIPLINE

(Inadequate and/or Inaccurate Record Keeping)

22. Respondent Michael Alexander Giuffrida, M.D. is subject to disciplinary action under section 2266 of the Code and under 16 CCR Section 1356.6 in that Respondent failed to keep

accurate and adequate records in his care and treatment of Patient 1. The circumstances are as follows:

23. The allegations of paragraphs 9 through 15 are incorporated herein by reference.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 89167, issued to Respondent Michael Alexander Giuffrida, M.D.;

2. Revoking, suspending or denying approval of Respondent, Michael Alexander Giuffrida, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent Michael Alexander Giuffrida, M.D. to pay the Board reasonable costs of investigation and prosecution incurred after January 1, 2022.

4. If placed on probation, ordering Respondent Michael Alexander Giuffrida, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: APR 29 2022

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

Complainant

LA2021601899
65065574.docx