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

In the Matter of the Accusation Against:	)	
William Lee Phillips, M.D.	)	**Case No. 800-2016-023005**
Physician's and Surgeon's Certificate No. A98794	)	
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 22, 2020

IT IS SO ORDERED April 23, 2020

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson

Kristina D. Lawson, J.D.
Panel B

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

In the Matter of the Accusation Against: **WILLIAM LEE PHILLIPS, M.D.** **Cardiology Kaiser Permanente** **2025 Morse Avenue, Station 2H** **Sacramento, CA 95825** **Physician's and Surgeon's Certificate No. A 98794** Respondent.	Case No. 800-2016-023005 OAH No. 2019020822 **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. Christine Lally (Complainant), is the Deputy Director of the Medical Board of California (Board). This action was brought by then-Complainant Kimberly Kirchmeyer,[1] solely

[1] Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

in her official capacity. Complainant is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Megan R. O'Carroll, Deputy Attorney General.

2. Respondent William Lee Phillips, M.D. (Respondent) is represented in this proceeding by attorney Ann H. Larson, Esq., whose address is: 2420 Camino Ramon, Suite 202 San Ramon, CA 94583-4202.

3. On or about January 31, 2007, the Board issued Physician's and Surgeon's Certificate No. A 98794 to William Lee Phillips, 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. 800-2016-023005, and will expire on December 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-023005 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 January 15, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-023005 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-023005. Respondent has also carefully read, fully discussed with 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 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.

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 Accusation No. 800-2016-023005, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. 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 Respondent hereby gives up his right to contest those charges.

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 imposition of discipline 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. 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.

14. 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 Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 98794 issued to Respondent William Lee Phillips, M.D., shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code, section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with Respondent's care and treatment of a confidential patient, is based on the facts and allegations as set forth in Accusation No. 800-2016-023005.

B. EDUCATION COURSE

Within 60 calendar days of the effective date of this Decision, 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 25 hours. The educational program(s) or course(s) shall be Category 1 certified, and shall cover medical topics including management of in-patient cardiac patient. 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. Respondent shall provide proof of attendance to the Board or its designee of satisfaction of this requirement.

Failure to successfully complete and provide proof of attendance to the Board or its designee of the educational program(s) or course(s) within 12 months of the effective date of this Decision, unless the Board or its designee agrees in writing to an extension of that time, shall constitute general unprofessional conduct and may serve as the grounds for further disciplinary action.

C. 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.

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. Failure to provide proof of successful completion of the course to the Board or its designee within twelve (12) months of the effective date of this Decision, unless the Board or its designee agrees in writing to an extension of that time, shall constitute general unprofessional conduct and may serve as the grounds for further disciplinary action.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ann Larson. 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: 10/30/2019

WILLIAM LEE PHILLIPS, M.D.
Respondent

I have read and fully discussed with Respondent William Lee Phillips, 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: 11/1/2019

ANN LARSON, 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: 11-4-2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

Megan R. O'Carroll

MEGAN R. O'CARROLL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-023005

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

In the Matter of the Accusation Against: **William Lee Phillips, M.D.** **Cardiology Kaiser Permanente** **2025 Morse Avenue** **Sacramento, CA 95825** **Physician's and Surgeon's Certificate No. A 98794,** Respondent.	Case No. 800-2016-023005 **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 January 31, 2007, the Medical Board issued Physician's and Surgeon's Certificate Number A 98794 to William Lee Phillips, 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 December 31, 2020, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code 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.

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

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

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated 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 2220 of the Code states:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

"(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

"(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

"(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon."

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7. 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."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent 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 a confidential patient (C.P.). The circumstances are as follows:

9. On or about March 6, 2015, C.P., a 58-year-old man, presented to the Emergency Room at Kaiser Morse hospital with a complaint of chest pain. In the Emergency Room C.P. was diagnosed with a myocardial infarction and was transferred to Kaiser's cardiac catheterization laboratory for evaluation and potential treatment. In the cardiac catheterization laboratory, C.P. had a diagnostic angiogram, which showed high-grade, diffuse multi-vessel coronary artery disease. This included high grade stenosis in the distal left main artery, diffuse high-grade left anterior descending artery disease, high-grade ramus intermedius disease, and a chronically occluded right coronary artery. The left ventricular ejection fraction was severely depressed at 10-15%, with a markedly elevated left ventricular end diastolic pressure of 39.

10. C.P. required cardiac bypass surgery due to the severity of his cardiac disease. But Kaiser Permanente at Morse Avenue in Sacramento did not have the facilities to conduct cardiac bypass surgery. Therefore, C.P. would have to be transferred to Mercy General Hospital for the bypass surgery. C.P.'s caregivers contacted Mercy General Hospital's cardiothoracic surgery department to explain C.P.'s condition and need for surgery. The cardiothoracic surgery department at Mercy Hospital noted that C.P. had received medications that would increase his risk of bleeding post-surgery. Therefore, Mercy Hospital stated it would take C.P. for the bypass surgery in two or three days after the medication had a chance to dissipate.

11. Respondent was a Board-certified cardiologist at Kaiser Permanente during the events alleged in this Accusation. He took over as the on-call cardiologist for C.P. later that Friday evening, March 6, 2015, and received a summary of C.P.'s status and condition when the

previous cardiologist signed out to him. Upon taking over C.P.'s care, Respondent did not contact Mercy Hospital's cardiothoracic surgical department to discuss the potential for an earlier surgery in light of C.P.'s critical condition. Respondent did not evaluate the need for placing an intra-aortic balloon pump with an urgent transfer to Mercy Medical Center where mechanical revascularization would have been available in the event that C.P. decompensated.

12. The following day, Saturday, March 7, 2015, Respondent did not round on patient C.P. Instead, Respondent relied on the information provided by an internal medicine physician who did see C.P. The internal medicine physician noted C.P. had low urine output, and C.P. was started on diuretics.

13. On Sunday, March 8, 2015, C.P.'s condition deteriorated both by clinical standards and by laboratory test results. He became more obtunded and lethargic and had episodes of hypotension. He developed respiratory acidosis. At 8:21 a.m., C.P. had a markedly abnormal arterial blood gas with a pH of 7.21, a partial pressure of carbon dioxide of 62, and a partial pressure of oxygen of 66. The internal medicine physician contacted Respondent to inform him of these concerning developments. C.P. was, by this time, receiving BiPap treatment for progressive respiratory insufficiency. Respondent attributed the acidosis and carbon dioxide retention C.P. exhibited to be due to underlying obstructive sleep apnea.

14. Respondent physically saw C.P. for the first time on Sunday, March 8, 2015 at approximately 2:00 p.m. Respondent observed C.P. to be asleep and did not attempt to wake him. Respondent did not document this visit. Respondent did not believe that C.P. required a higher level of care, an intra-aortic balloon pump, or revascularization at this time. The internal medicine physician contacted Respondent later Sunday evening to inquire whether he felt higher levels of care or the intra-aortic balloon pump was required, but Respondent indicated that this was not necessary.

15. Respondent did not round on C.P. the following morning, Monday, March 9, 2015. He was in a separate area of the hospital when he was notified that C.P. was in cardiogenic shock with laboratory evidence of florid congestive heart failure. C.P. had a markedly elevated BNP, acute renal failure with an elevation in creatinine from 1.4 at baseline to 3.2, shock liver with

markedly elevated liver enzymes, metabolic acidosis with an increasing anion gap and a drop in bicarbonate levels. The plan was to perform an intra-aortic balloon pump, but C.P. died before the procedure could be completed.

16. Respondent was grossly negligent in his care and treatment of C.P. for his acts including, but not limited to, the following:

a. Failing to respond to C.P.'s clinical deterioration and abnormal laboratory tests on the morning of March 8, 2015 with evaluation for an urgent intervention and transfer;

b. Failing to respond to the additional information about C.P.'s condition and the internal medicine physician's request for evaluation of possible intra-aortic balloon placement and transfer to a higher level of care on the evening of March 8, 2015; and

c. Missing multiple opportunities to recognize and act on the impending cardiogenic shock.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligence)

17. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he was repeatedly negligent in the care and treatment C.P. The circumstances are as follows:

18. Paragraphs 8 through 16, above, are incorporated by reference and repeated as if fully set forth.

19. Respondent was repeatedly negligent in his care and treatment of C.P. for his acts including, but not limited to, the following:

a. Failing to respond to C.P.'s clinical deterioration and abnormal laboratory tests on the morning of March 8, 2015 with evaluation for an urgent intervention and transfer;

b. Failing to respond to the additional information about C.P.'s condition and the internal medicine physician's request for evaluation of possible intra-aortic balloon placement and transfer to a higher level of care on the evening of March 8, 2015;

c. Missing multiple opportunities to recognize and act on the impending cardiogenic shock;

d. Failing to contact Mercy Medical Center to discuss and evaluate earlier surgery or transfer on the evening of Friday March 6, 2015;

e. Failing to round on C.P. on Saturday, March 7, 2015 despite his dire clinical condition; and

f. Failing to round on C.P. on Monday morning, March 9, 2015.

THIRD CAUSE FOR DISCIPLINE

(Inadequate Records)

20. Respondent is subject to disciplinary action under section 2266 of the Code by failing maintain adequate and accurate records relating to the provision of medical care to C.P.

21. Paragraphs 8 through 19, above are incorporated by reference and repeated as if fully set forth.

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 A 98794, issued to William Lee Phillips, M.D.;

2. Revoking, suspending or denying approval of William Lee Phillips, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering William Lee Phillips, 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: January 15, 2019

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

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