

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

In the Matter of the Accusation
Against:

Emil A. Saify, M.D.

Physician's and Surgeon's
Certificate No. A 92733

Respondent.

Case No.: 800-2020-065009

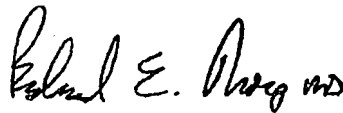
DECISION

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 June 24, 2022.

IT IS SO ORDERED: May 25, 2022.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, M.D., Chair
Panel B

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
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7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **EMIL A. SAIFY, M.D.**
14 **6038 Carlton Way, Number 404**
Hollywood, CA 90028

15 **Physician's and Surgeon's**
16 **Certificate No. A 92733,**

17 Respondent.

Case No. 800-2020-065009

OAH No. 2022010692

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith, Deputy
25 Attorney General.

26 2. Respondent Emil A. Saify, M.D. (Respondent) is represented in this proceeding by
27 attorney Thomas F. McAndrews, whose address is 1230 Rosecrans Avenue, Suite 450, Manhattan
28 Beach, California 90266.

1 3. On or about September 2, 2005, the Board issued Physician's and Surgeon's
2 Certificate No. A 92733 to Respondent. That license was in full force and effect at all times
3 relevant to the charges brought in Accusation No. 800-2020-065009, and will expire on
4 September 30, 2023, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2020-065009 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on December 17, 2021. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 5. A copy of Accusation No. 800-2020-065009 is attached as Exhibit A and
11 incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2020-065009. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

25 **CULPABILITY**

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2020-065009, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

1 agreement of the parties in this above entitled matter.

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

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 92733 issued
10 to Respondent Emil A. Saify, M.D. is revoked. However, the revocation is stayed and
11 Respondent is placed on probation for two (2) years on the following terms and conditions:

12 1. MEDICAL RECORD KEEPING COURSE – Condition Satisfied. Within sixty (60)
13 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical
14 record keeping approved in advance by the Board or its designee. Respondent shall provide the
15 approved course provider with any information and documents that the approved course provider
16 may deem pertinent. Respondent shall participate in and successfully complete the classroom
17 component of the course not later than six (6) months after Respondent's initial enrollment.
18 Respondent shall successfully complete any other component of the course within one (1) year of
19 enrollment. The medical record keeping course shall be at Respondent's expense and shall be in
20 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

21 A medical record keeping course taken after the acts that gave rise to the charges in the
22 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
23 or its designee, be accepted towards the fulfillment of this condition if the course would have
24 been approved by the Board or its designee had the course been taken after the effective date of
25 this Decision.

26 Respondent shall submit a certification of successful completion to the Board or its
27 designee not later than fifteen (15) calendar days after successfully completing the course, or not
28 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

1 2. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty (60)
2 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical
3 competence assessment program approved in advance by the Board or its designee. Respondent
4 shall successfully complete the program not later than six (6) months after Respondent's initial
5 enrollment unless the Board or its designee agrees in writing to an extension of that time.

6 The program shall consist of a comprehensive assessment of Respondent's physical and
7 mental health and the six general domains of clinical competence as defined by the Accreditation
8 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
9 Respondent's current or intended area of practice. The program shall take into account data
10 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
11 Accusation(s), and any other information that the Board or its designee deems relevant. The
12 program shall require Respondent's on-site participation for a minimum of three (3) and no more
13 than five (5) days as determined by the program for the assessment and clinical education
14 evaluation. Respondent shall pay all expenses associated with the clinical competence
15 assessment program.

16 At the end of the evaluation, the program will submit a report to the Board or its designee
17 which unequivocally states whether the Respondent has demonstrated the ability to practice
18 safely and independently. Based on Respondent's performance on the clinical competence
19 assessment, the program will advise the Board or its designee of its recommendation(s) for the
20 scope and length of any additional educational or clinical training, evaluation or treatment for any
21 medical condition or psychological condition, or anything else affecting Respondent's practice of
22 medicine. Respondent shall comply with the program's recommendations.

23 Determination as to whether Respondent successfully completed the clinical competence
24 assessment program is solely within the program's jurisdiction.

25 If Respondent fails to enroll, participate in, or successfully complete the clinical
26 competence assessment program within the designated time period, Respondent shall receive a
27 notification from the Board or its designee to cease the practice of medicine within three (3)
28 calendar days after being so notified. Respondent shall not resume the practice of medicine until

1 enrollment or participation in the outstanding portions of the clinical competence assessment
2 program have been completed. If Respondent did not successfully complete the clinical
3 competence assessment program, Respondent shall not resume the practice of medicine until a
4 final decision has been rendered on the accusation and/or a petition to revoke probation. The
5 cessation of practice shall not apply to the reduction of the probationary time period.

6 3. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
7 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
8 Chief Executive Officer at every hospital where privileges or membership are extended to
9 Respondent, at any other facility where Respondent engages in the practice of medicine,
10 including all physician and locum tenens registries or other similar agencies, and to the Chief
11 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
12 Respondent. Respondent shall submit proof of compliance to the Board or its designee within
13 fifteen (15) calendar days.

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

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

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

21 6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
22 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
23 \$2,465.00 (two thousand four hundred sixty-five dollars and no cents). Costs shall be payable to
24 the Medical Board of California. Failure to pay such costs shall be considered a violation of
25 probation.

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

28 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility

1 to repay investigation and enforcement costs.

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

5 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
6 the end of the preceding quarter.

7 8. GENERAL PROBATION REQUIREMENTS.

8 Compliance with Probation Unit

9 Respondent shall comply with the Board's probation unit.

10 Address Changes

11 Respondent shall, at all times, keep the Board informed of Respondent's business and
12 residence addresses, email address (if available), and telephone number. Changes of such
13 addresses shall be immediately communicated in writing to the Board or its designee. Under no
14 circumstances shall a post office box serve as an address of record, except as allowed by Business
15 and Professions Code section 2021, subdivision (b).

16 Place of Practice

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

20 License Renewal

21 Respondent shall maintain a current and renewed California physician's and surgeon's
22 license.

23 Travel or Residence Outside California

24 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
25 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
26 (30) calendar days.

27 In the event Respondent should leave the State of California to reside or to practice
28 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the

1 dates of departure and return.

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

5 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
6 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
7 more than 30 calendar days and within fifteen (15) calendar days of Respondent's return to
8 practice. Non-practice is defined as any period of time Respondent is not practicing medicine as
9 defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a
10 calendar month in direct patient care, clinical activity or teaching, or other activity as approved by
11 the Board. If Respondent resides in California and is considered to be in non-practice,
12 Respondent shall comply with all terms and conditions of probation. All time spent in an
13 intensive training program which has been approved by the Board or its designee shall not be
14 considered non-practice and does not relieve Respondent from complying with all the terms and
15 conditions of probation. Practicing medicine in another state of the United States or Federal
16 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
17 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
18 considered as a period of non-practice.

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

24 Respondent's period of non-practice while on probation shall not exceed two (2) years.

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

26 Periods of non-practice for a Respondent residing outside of California will relieve
27 Respondent of the responsibility to comply with the probationary terms and conditions with the
28 exception of this condition and the following terms and conditions of probation: Obey All Laws;

1 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
2 Controlled Substances; and Biological Fluid Testing.

3 11. COMPLETION OF PROBATION. Respondent shall comply with all financial
4 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar
5 days prior to the completion of probation. Upon successful completion of probation,
6 Respondent's certificate shall be fully restored.

7 12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
8 of probation is a violation of probation. If Respondent violates probation in any respect, the
9 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
10 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
11 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
12 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
13 be extended until the matter is final.

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

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

1 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
2 a new license or certification, or petition for reinstatement of a license, by any other health care
3 licensing action agency in the State of California, all of the charges and allegations contained in
4 Accusation No. 800-2020-065009 shall be deemed to be true, correct, and admitted by
5 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
6 restrict license.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
9 discussed it with my attorney, Thomas F. McAndrews. I understand the stipulation and the effect
10 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
11 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Medical Board of California.

13
14 DATED: 4-15-22 E. Saify M.D.
15 EMIL A. SAIFY, M.D.
Respondent

16 I have read and fully discussed with Respondent Emil A. Saify, M.D. the terms and
17 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
18 I approve its form and content.

19
20 DATED: 4/15/22 Thomas McAndrews
21 THOMAS F. MCANDREWS
Attorney for Respondent

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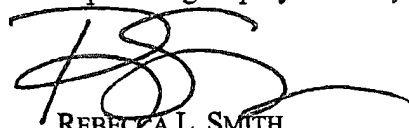
ENDORSEMENT

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

DATED: 4/15/2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2020-065009

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
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Attorneys for Complainant
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2020-065009

13 **EMIL A. SAIFY, M.D.**
14 **6038 Carlton Way, Number 404**
Hollywood, CA 90028

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 92733,**

Respondent.

17
18
19 **PARTIES**

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

22 2. On or about September 2, 2005, the Board issued Physician's and Surgeon's
23 Certificate Number A 92733 to Emil A. Saify, M.D. (Respondent). That license was in full force
24 and effect at all times relevant to the charges brought herein and will expire on September 30,
25 2023, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 provisions of the California Business and Professions Code ("Code") unless otherwise indicated.

1 4. Section 2004 of the Code states:

2 The board shall have the responsibility for the following:

3 (a) The enforcement of the disciplinary and criminal provisions of the Medical
4 Practice Act.

5 (b) The administration and hearing of disciplinary actions.

6 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
an administrative law judge.

7 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
8 of disciplinary actions.

9 (e) Reviewing the quality of medical practice carried out by physician and
surgeon certificate holders under the jurisdiction of the board.

10 (f) Approving undergraduate and graduate medical education programs.

11 (g) Approving clinical clerkship and special programs and hospitals for the
12 programs in subdivision (f).

13 (h) Issuing licenses and certificates under the board's jurisdiction.

14 (i) Administering the board's continuing medical education program.

15 5. Section 2227 of the Code states:

16 (a) A licensee whose matter has been heard by an administrative law judge of
17 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
18 into a stipulation for disciplinary action with the board, may, in accordance with the
provisions of this chapter:

19 (1) Have his or her license revoked upon order of the board.

20 (2) Have his or her right to practice suspended for a period not to exceed one
year upon order of the board.

21 (3) Be placed on probation and be required to pay the costs of probation
22 monitoring upon order of the board.

23 (4) Be publicly reprimanded by the board. The public reprimand may include a
24 requirement that the licensee complete relevant educational courses approved by the
board.

25 (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.

26 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
27 medical review or advisory conferences, professional competency examinations,
continuing education activities, and cost reimbursement associated therewith that are
28 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.

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6. 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.

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.

COST RECOVERY

8. Business and Professions Code section 125.3 states that:

(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.

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

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

6 (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
7 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
8 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).

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

12 (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.

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

15 (2) Notwithstanding paragraph (1), the board may, in its discretion,
16 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
17 with the board to reimburse the board within that one-year period for the unpaid
costs.

18 (h) All costs recovered under this section shall be considered a reimbursement
19 for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

20 (i) Nothing in this section shall preclude a board from including the recovery of
21 the costs of investigation and enforcement of a case in any stipulated settlement.

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

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1 FIRST CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 9. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
4 the Code, in that he engaged in repeated acts of negligence in the care and treatment of Patient 1.¹
5 The circumstances are as follows:

6 10. On March 29, 2017, Patient 1, a 31-year-old male, presented to Quality Care Surgery
7 Center for a scheduled three-level laminectomy by neurosurgeon, Dr. S.A. Respondent was the
8 anesthesiologist for the procedure.

9 11. Respondent performed an anesthesia preoperative evaluation of Patient 1.² The
10 patient had a history of low back pain with radiation to his legs that had bothered him for many
11 years. The patient's medications included lisinopril (blood pressure medication), gabapentin
12 (nerve pain medication), and marijuana. Respondent noted that the results from the patient's
13 preoperative laboratory studies were within normal limits. In addition, Patient 1's preoperative
14 EKG performed on March 6, 2017 showed a normal sinus rhythm and the preoperative chest x-
15 ray showed no acute cardiopulmonary process. The patient had no known drug allergies. Patient
16 1 was 6' 1" tall and weighed 265 pounds (160 kilograms) with a body mass index that was less
17 than 40. Using the American Society of Anesthesiologists (ASA) physical status classification
18 system, Respondent concluded that Patient 1 was status III³ with a class III airway.⁴

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21 _____
22 ¹ The patient herein is referred to as Patient 1 in order to protect his privacy.

23 ² Respondent's anesthesia records are handwritten, incomplete, largely illegible, and difficult to
24 read.

25 ³ The ASA physical status classification system uses a scale of I to VI, with I being a healthy
26 patient with minimal risks to VI being a declared brain-dead patient whose organs are being removed for
27 donor purposes. ASA physical status III is a patient with severe systemic disease.

28 ⁴ Airway classification scale ranges from class I to IV. Class I is present when the soft palate,
uvula, and pillars are visible. Class II is present when the soft palate and the uvula are visible. Class III is
present when only the soft palate and base of the uvula are visible. Class IV is present when only the hard
palate is visible.

1 12. Respondent's anesthesia record noted the anesthesia start time of 6:02 a.m., at which
2 time Respondent administered two milligrams of midazolam,⁵ 200 milligrams of propofol,⁶ and
3 40 milligrams of rocuronium.⁷

4 13. Respondent documented an intra-operative time of 6:15 a.m. and that he intubated
5 Patient 1 on the first attempt with placement of a 7.0 endotracheal tube secured at 20 cm. The
6 placement was noted to have been confirmed with the presence of End-Tidal CO₂.⁸ Respondent
7 did not document whether the End-Tidal CO₂ was seen continuously or if there was a delay in
8 ventilating the patient.

9 14. A late-entry nursing note by Nurse L.L. dated March 29, 2017 and timed at 3:00
10 p.m.,⁹ reflects that Patient 1 was taken to the operative room at 6:15 a.m., with monitors attached
11 and functioning well and that at 6:28 a.m., Patient 1 was intubated. Nurse L.L. noted that at 6:28
12 a.m., Respondent stated that they were ready to turn the patient to a prone position once the pulse
13 oximetry reading came back on. No reading was detected. Respondent assessed the patient and
14 the endotracheal tube. Respondent then re-intubated the patient using a Glidescope for better
15 visualization. Once satisfied with the position, Respondent inflated the cuff. The patient's chest
16 was noted to be rising and auscultation was performed using stethoscope. A second anesthesia
17 monitor was brought into the operating room and Nurse L.L. requested that a portable oxygen
18 saturation [monitor] be brought into the operating room.¹⁰

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20 ⁵ Midazolam is used to produce sleepiness or drowsiness and relieve anxiety before surgery. It is
also an amnesiac.

21 ⁶ Propofol slows down brain and nervous system activity and is used to produce sleep before and
22 during surgery.

23 ⁷ Rocuronium relaxes skeletal muscles and is used with general anesthesia medicines for
intubation.

24 ⁸ End Tidal CO₂ is the level of carbon dioxide that is released at the end of an exhaled breath and
25 reflects the patient's ventilator status.

26 ⁹ All nursing progress notes by Nurse L.L. for care from 6:15 a.m. through 8:35 a.m. on March 29,
2017, were late entries prepared on March 29, 2017 at 3:00 p.m.

27 ¹⁰ There is no documentation by Respondent as to why a second anesthesia monitor was necessary
28 or why a portable pulse oximeter was requested.

1 15. Nurse L.L.'s nursing notes reflects that at 6:33 a.m., there was a skin color change on
2 the patient's face and nailbeds. At that time, Nurse L.L. requested that Nurse N.M. leave the
3 operating room to ask Dr. K.C., another anesthesiologist, for assistance. At that time, Respondent
4 administered intravenous medication while pushing down with three fingers on the patient's chest
5 while Dr. S.A. and Nurse L.L. checked for peripheral pulses.

6 16. There is no documentation by Respondent reflecting the change in the patient's vital
7 signs and the timing of those changes.¹¹

8 17. Nurse L.L.'s nursing notes document that at 6:34 a.m., Dr. K.C. entered the operating
9 room and checked for pulses. Dr. K.C. stated that there was no pulse and began chest
10 compressions. Dr. K.C. then called a Code Blue and requested crash cart. Respondent
11 administered epinephrine.¹² Nurse L.L. noted that at 6:36 a.m., the cardiopulmonary resuscitation
12 (CPR) was interrupted for a pulse check. No pulse was felt and CPR resumed. At 6:38 a.m., the
13 patient had a pulse and CPR was stopped. Patient 1's skin color was pink and his oxygen
14 saturations were at 100%. His cardiac rhythm was noted to be tachycardic.¹³

15 18. After the resuscitation and code blue, the planned surgical procedure was aborted.

16 19. The standard of care requires that a physician document all information pertinent to
17 the care and treatment being provided to the patient.

18 20. There was a lack of documentation in the anesthesia record regarding blood pressure,
19 pulse oximetry values, End-Tidal CO₂, or heart rate changes associated with Patient 1's cardiac
20 arrest. Respondent committed a simple departure from the standard of care in failing to document
21 the vital sign changes associated with the cardiac arrest.

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24 ¹¹ Respondent prepared a largely illegible and incomplete late progress note at 9:30 a.m. on March
25 29, 2017, which reflects that following induction, the patient had "saturation 99%, blood pressure 140/70,
26 heart rate is 90, and heart rate goes up to 160, sinus brady in the 30s, unable to get saturation or a pulse,
27 asystole...."

28 ¹² Epinephrine increases arterial blood pressuring and coronary perforation when administered
during cardiopulmonary resuscitation (CPR) to reverse cardiac arrest.

¹³ A tachycardic response is a heart rate over 100 beats per minute.

1 21. Nurse L.L. further noted that at 6:39 a.m., the patient continued to be supported with
2 mechanical ventilation and that Respondent continued to monitor him. At 7:10 a.m., Respondent
3 extubated the patient and requested that no ambulance be called yet.¹⁴ At 7:14 a.m., the patient
4 was transferred from the operating room to the post anesthesia care unit (PACU).

5 22. Nurse L.L. nursing record reflects that she was walking through the PACU at 8:08
6 a.m. and observed that the patient was not awake. She asked nurse N.M. if the ambulance had
7 been called yet. When Nurse L.L. was told that an ambulance had not been called, she called Dr.
8 S.A., the head of anesthesia, to request that the patient be evaluated. Dr. S.A. instructed Nurse
9 L.L. to have Dr. K.C. evaluate the patient.

10 23. Dr. K.C. was called to the PACU from an operating room to evaluate the patient.
11 Upon completion of her evaluation, Dr. K.C. recommended that Patient 1 be transferred to the
12 hospital. At 8:20 a.m., the PACU nurse called 911 to have the patient transferred to the hospital.
13 In the PACU, the patient was breathing rapidly and not fully waking up. At 8:35 a.m.,
14 Respondent re-intubated Patient 1.

15 24. There was no documentation by Respondent regarding his delay in ordering the
16 transfer of the patient to a higher level of care or Dr. K.C.'s recommendation that the patient be
17 transferred.

18 25. After a cardiac arrest at an outpatient surgery center, the standard of care requires that
19 the physician transfer the patient to a hospital equipped to monitor and evaluate the patient at a
20 higher level of care, as soon as possible.

21 26. Respondent committed a simple departure from the standard of care in not
22 immediately transferring the patient to a hospital with a higher level of care following the cardiac
23 arrest in the operating room.

24 27. At 8:45 a.m., the patient was transferred to Glendale Memorial Hospital by
25 paramedics. The hospital transfer form reflects that the clinical indicators for transfer were
26 respiratory distress and labored breathing. At Glendale Memorial Hospital, Patient 1 was

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28 ¹⁴ Respondent does not document why he did not want an ambulance called at that time.

1 diagnosed with an anoxic brain injury. He remained hospitalized until April 9, 2017, at which
2 time he was transferred to a long-term care facility.

3 28. Respondent's acts and/or omissions as set forth in paragraphs 8 through 25, above,
4 whether proven individually, jointly, or in any combination thereof, constitute repeated acts of
5 negligence pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline
6 exists.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Failure to Maintain Adequate and Accurate Records)**

9 29. Respondent's license is subject to disciplinary action under section 2266 of the Code
10 in that he failed to maintain adequate and accurate records concerning the care and treatment of
11 Patient 1. The circumstances are as follows:

12 30. The allegations in the First Cause for Discipline above are incorporated herein by
13 reference as if fully set forth.

14 **PRAYER**

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

17 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 92733,
18 issued to Respondent Emil A. Saify, M.D.;

19 2. Revoking, suspending or denying approval of Respondent Emil A. Saify, M.D.'s
20 authority to supervise physician assistants and advanced practice nurses;

21 3. Ordering Respondent Emil A. Saify, M.D., to pay the Board the costs of the
22 investigation and enforcement of this case, and if placed on probation, the costs of probation
23 monitoring; and

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

DATED: DEC 17 2021



Reji Varghese
Deputy Director

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

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