

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

**In the Matter of the Accusation  
Against:**

**Rakhee N. Shah, M.D.**

**Physician's and Surgeon's  
Certificate No. A 90744**

**Case No.: 800-2021-077963**

**Respondent.**

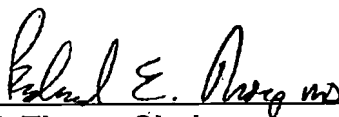
**DECISION**

**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 February 16, 2024.**

**IT IS SO ORDERED: January 19, 2024.**

**MEDICAL BOARD OF CALIFORNIA**



**Richard E. Thorp, Chair  
Panel B**

1 ROB BONTA  
Attorney General of California  
2 GREG W. CHAMBERS  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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*Attorneys for Complainant*

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. 800-2021-077963

13 **RAKHEE N. SHAH, M.D.**  
14 **3800 Janes Rd.**  
**Arcata, CA 95521-4742**

OAH No. 2023070098

15 **Physician's and Surgeon's Certificate No. A**  
16 **90744**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17 Respondent

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

20 **PARTIES**

21 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of  
22 California (Board). He brought this action solely in his official capacity and is represented in this  
23 matter by Rob Bonta, Attorney General of the State of California, by Harriet Newman, Deputy  
24 Attorney General.

25 2. Respondent Rakhee N. Shah, M.D. (Respondent) is represented in this proceeding by  
26 attorney Peter Osinoff, whose address is: Bonne Bridges Mueller O'Keefe & Nichols, 355 South  
27 Grand Ave., Suite 1750, Los Angeles, CA 90071-1562.

3. On or about April 1, 2005, the Board issued Physician's and Surgeon's Certificate No. A 90744 to 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. 800-2021-077963, and will expire on January 31, 2025, unless renewed.

## JURISDICTION

4. Accusation No. 800-2021-077963 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 December 22, 2022. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2021-077963 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. 800-2021-077963. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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. 800-2021-077963, if proven ad hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate No. A90744.

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 those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

11. Respondent agrees her Physician's and Surgeon's certificate is subject to discipline, and she agrees to be bound by the Board's probationary terms 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in Accusation No. 800-2021-077963 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.

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

4                                   **DISCIPLINARY ORDER**

5           IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 90744 issued  
6 to Respondent RAKHEE N. SHAH, M.D. is revoked. However, the revocation is stayed and  
7 Respondent is placed on probation for two (2) years on the terms and conditions below. This  
8 Order is to run concurrently with the probationary order in case no. 800-2017-037-477.

9           1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this  
10 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
11 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
12 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
13 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
14 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
15 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
16 completion of each course, the Board or its designee may administer an examination to test  
17 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
18 hours of CME of which 40 hours were in satisfaction of this condition.

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

28           The Board or its designee shall provide the approved monitor with copies of the Decision(s)

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

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

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

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

22 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
23 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
24 name and qualifications of a replacement monitor who will be assuming that responsibility within  
25 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
26 calendar days of the resignation or unavailability of the monitor, 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 cease the practice of medicine until a

1 replacement monitor is approved and assumes monitoring responsibility.

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

7 3. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
8 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
9 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
10 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
11 location.

12 If Respondent fails to establish a practice with another physician or secure employment in  
13 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
14 Respondent shall receive a notification from the Board or its designee to cease the practice of  
15 medicine within three (3) calendar days after being so notified. The Respondent shall not resume  
16 practice until an appropriate practice setting is established.

17 If, during the course of the probation, the Respondent's practice setting changes and the  
18 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent  
19 shall notify the Board or its designee within five (5) calendar days of the practice setting change.  
20 If Respondent fails to establish a practice with another physician or secure employment in an  
21 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
22 shall receive a notification from the Board or its designee to cease the practice of medicine within  
23 three (3) calendar days after being so notified. The Respondent shall not resume practice until an  
24 appropriate practice setting is established.

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

28 5. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby

1 ordered to reimburse the Board its costs of investigation and enforcement, including, but not  
2 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena  
3 enforcement, as applicable, in the amount of \$27,416.20 (twenty seven thousand four hundred  
4 sixteen dollars and twenty cents). Costs shall be payable to the Medical Board of California.  
5 Failure to pay such costs shall be considered a violation of probation.

6 Payment must be made in full within 30 calendar days of the effective date of the Order, or  
7 by a payment plan approved by the Medical Board of California. Any and all requests for a  
8 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with the  
9 payment plan shall be considered a violation of probation.

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

12 6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
13 under penalty of perjury on forms provided by the Board, stating whether there has been  
14 compliance with all the conditions of probation.

15 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
16 of the preceding quarter.

17 7. GENERAL PROBATION REQUIREMENTS.

18 Compliance with Probation Unit

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

20 Address Changes

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

26 Place of Practice

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



1 facility.

2 License Renewal

3 Respondent shall maintain a current and renewed California physician's and surgeon's  
4 license.

5 Travel or Residence Outside California

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

9 In the event Respondent should leave the State of California to reside or to practice  
10 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
11 departure and return.

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

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

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

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

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

8 Periods of non-practice for a Respondent residing outside of California will relieve  
9 Respondent of the responsibility to comply with the probationary terms and conditions with the  
10 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
11 General Probation Requirements and Quarterly Declarations.

12 10. COMPLETION OF PROBATION. Respondent shall comply with all financial  
13 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
14 completion of probation. This term does not include cost recovery, which is due within 30  
15 calendar days of the effective date of the Order, or by a payment plan approved by the Medical  
16 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate  
17 shall be fully restored.

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

25 12. LICENSE SURRENDER. Following the effective date of this Decision, if  
26 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
27 the terms and conditions of probation, Respondent may request to surrender his or her license.  
28 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

1 determining whether or not to grant the request, or to take any other action deemed appropriate  
2 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
3 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
4 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
5 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
6 application shall be treated as a petition for reinstatement of a revoked certificate.

7 13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
8 with probation monitoring each and every year of probation, as designated by the Board, which  
9 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
10 California and delivered to the Board or its designee no later than January 31 of each calendar  
11 year.

12 14. FUTURE ADMISSIONS CLAUSE. Respondent should ever apply or reapply for a  
13 new license or certification, or petition for reinstatement of a license, by any other health care  
14 licensing action agency in the State of California, all of the charges and allegations contained in  
15 Accusation No. 800-2021-077963 shall be deemed to be true, correct, and admitted by  
16 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
17 restrict license.

#### 18 ACCEPTANCE

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
20 discussed it with my attorney, Peter Osinoff. I understand the stipulation and the effect it will  
21 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
22 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
23 Decision and Order of the Medical Board of California.

24 //

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27  
28 DATED: \_\_\_\_\_

12/7/2023



RAKHEE N. SHAH, M.D.  
*Respondent*

I have read and fully discussed with Respondent Rakhee N. Shah, 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:

12/7/2023



PETER OSINOFF  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: 12/7/23

Respectfully submitted,

ROB BONTA  
Attorney General of California  
GREG W. CHAMBERS  
Supervising Deputy Attorney General



HARRIET NEWMAN  
Deputy Attorney General  
*Attorneys for Complainant*

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Attorney General of California  
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8 **BEFORE THE**  
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10 **DEPARTMENT OF CONSUMER AFFAIRS**  
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12 In the Matter of the Accusation:

Case No. 800-2021-077963

13 **RAKHEE N. SHAH, M.D.**  
14 **3800 Janes Rd.**  
**Arcata, CA 95521-4742**

**ACCUSATION**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 90744,**

Respondent.

17  
18 **PARTIES**

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

22 2. On April 1, 2005, the Medical Board issued Physician's and Surgeon's Certificate  
23 Number A 90744 to Rakhee N. Shah, M.D. (Respondent). The Physician's and Surgeon's  
24 Certificate was in effect at all times relevant to the charges brought herein and will expire on  
25 January 31, 2023, unless renewed.

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**JURISDICTION**

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

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

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

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

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**COST RECOVERY**

6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

**CAUSE FOR DISCIPLINE**

**(Gross Negligence and/or Repeated Negligent Acts)**

7. At all relevant times, Respondent was practicing as a general surgeon at a hospital in California. Respondent is subject to disciplinary action under sections 2234 and/or 2234(b) and/or 2234(c) of the Code, in that Respondent engaged in unprofessional conduct and/or was grossly negligent and/or repeatedly negligent in her care and treatment of Patient 1<sup>1</sup> and Patient 2. The circumstances are as follows.

**Patient 1**

8. On April 30, 2021, Patient 1, a 39 year-old man, was admitted to San Ramon Medical Center for an elective outpatient right laparoscopic<sup>2</sup> repair of his inguinoscrotal hernia.<sup>3</sup> At her Board interview, Respondent said her surgical instrument entered what she erroneously thought was a hernia sac near the median plane of Patient 1's body. In fact, Respondent lacerated Patient 1's bladder, causing active bleeding. Respondent noted fluid "oozing" from the site, but she maintained during her Board interview that she never lost the operative field, which she believes

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<sup>1</sup> Patients are referred to by number to protect their privacy.

<sup>2</sup> A laparoscopy is a surgical procedure in which a fiber-optic instrument is inserted through the abdominal wall to view the organs in the abdomen and/or to permit a surgical procedure.

<sup>3</sup> An inguinal hernia occurs when tissue, such as part of the intestine, protrudes through a weak spot in the abdominal muscles. The resulting bulge can be painful, especially when coughing, when bent over or lifting a heavy object. An inguinoscrotal hernia is an inguinal hernia descending into the scrotum.

1 should have happened had Respondent's surgical instrument entered the hernia sac. She believed  
2 she was in the proper place because the insufflating CO<sub>2</sub><sup>4</sup> would have escaped into the peritoneal  
3 cavity.<sup>5</sup> Despite Patient 1's active bleed, which should stopped the hernia operation, Respondent  
4 proceeded cutting until she had lacerated about 270 degrees of the circumference of Patient 1's  
5 bladder. Finally, when Respondent realized that she was in the wrong surgical location, she  
6 requested a nurse place a Foley catheter in Patient 1's bladder to confirm her surgical error.  
7 According to her Board interview, it was only when Respondent saw the catheter tip emerging in  
8 the operative field that she confirmed she was operating in the wrong site. She then stopped the  
9 procedure, and did not complete the hernia repair surgery.

10 9. Without determining the extent of Patient 1's bladder injury, Respondent left Patient  
11 1 on the operative table under anesthesia with an active unaddressed bleed, and scrubbed out to  
12 call an urologist for help. When she could not reach that urologist, she asked the nurse to find  
13 any urologist. A long wait ensued (approximately 20-30 minutes), and Patient 1 lost a significant  
14 amount of blood. Respondent discontinued CO<sub>2</sub> insufflation and did not make any attempt to  
15 control Patient 1's bleeding. The urologist scrubbed in to assist, and quickly determine that the  
16 laparoscopic approach begun for the hernia repair could not be converted to repair the bladder  
17 injury. The urologist also observed a lot of blood and urine in Patient 1's surgical field. The  
18 urologist addressed Patient 1's blood loss, and then was able to determine the extent of Patient 1's  
19 injury and begin the repair. The urologist converted the surgery from laparoscopic to an open  
20 exploration and repaired Patient 1's bladder injury. A general surgeon also scrubbed in to assist  
21 with the repair. Overall, Patient 1's surgery, which included Respondent's botched hernia  
22 procedure and the urologist's bladder surgery, took more than five hours.

23 10. Immediately after the five-hour surgery, Respondent considered repairing Patient 1's  
24 hernia. This, despite the fact that gross contamination (blood and urine in the field) was observed

25 <sup>4</sup> Gases are often insufflated into a body cavity to inflate the cavity for more workroom during  
26 laparoscopic surgery. The most common gas used in this manner is carbon dioxide, because it is non-  
flammable, colorless, and dissolves readily in blood.

27 <sup>5</sup> The peritoneum is a large membrane in the abdominal cavity that connects and supports internal  
28 organs. It is composed of many folds that pass between or around the various organs.



1 following repair of Patient 1's bladder injury and the fact that continued medical procedures had  
2 an enhanced risk of infection. Respondent stated in her Board interview that she has heard of  
3 other physicians performing hernia repairs in the face of gross contamination, and believed it to  
4 be appropriate based on that belief. Based on the advice of the general surgeon that the  
5 contaminated field presented a high risk of infection, the hernia repair was not performed.

6 11. Respondent's overall acts, and/or omissions, with regard to Patient 1 constituted gross  
7 negligence and/or repeated negligent acts in that:

- 8 a. Respondent failed to stop the operation when she first noted oozing fluid in  
9 Patient 1's operative site and did not lose insufflation. Recognizing the error  
10 sooner would have prevented the 270-degree extent of Patient 1's bladder injury  
11 requiring emergency repair.
- 12 b. Respondent failed to control Patient 1's bleeding after she lacerated Patient 1's  
13 bladder during surgery. She should not have scrubbed to look for an urologist, and  
14 should have tended to the patient's active blood loss.
- 15 c. Respondent revised her hernia repair surgical plan and intended to proceed with  
16 repairing Patient 1's hernia after the lengthy five-hour surgery and despite issues  
17 of gross contamination. She should have stopped the surgery and not considered  
18 continuing the repair given the blood loss and anesthesia time.

19 **Patient 2**

20 12. On January 19, 2018, a 14 year-old female was admitted to San Ramon Medical  
21 Center with a three-day history of abdominal pain, nausea and vomiting. Respondent performed  
22 a laparoscopic appendectomy. She did not place any drain in Patient 2. Respondent's post-  
23 operative notes indicated acute appendicitis<sup>6</sup>, perforated with purulent peritonitis<sup>7</sup>. Following  
24 surgery, Patient 2 had a fever and complained of pain in the right lower quadrant. An ultrasound

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26 <sup>6</sup> Acute appendicitis is the sudden and severe inflammation of the appendix. It can cause pain in  
the abdomen. The appendix is a narrow tube that attaches to the large intestine.

27 <sup>7</sup> Purulent peritonitis is a complicated course of appendicitis in which the peritoneum is inflamed.  
28

1 showed a complex infected hematoma,<sup>8</sup> which was a result of Respondent's omission in not  
2 placing a drain.

3 13. On January 23, 2018, Respondent performed a laparoscopic drainage and lavage  
4 procedure to remove the infected hematoma. Respondent performed a non-targeted irrigation of  
5 Patient 2's infected hematoma. During the irrigation, Respondent placed Patient 2's body in  
6 different positions, including head down, head up, and on her side. By placing Patient 2 in  
7 several positions, as opposed to just the reverse Trendelenburg<sup>9</sup> position, Respondent likely  
8 caused the contamination of all quadrants of Patient 2's abdominal cavity with infected fluids. At  
9 discharge from San Ramon Medical Center, Patient 2 was on a long course of powerful  
10 antibiotics and pain medication. After the laparoscopic drainage procedure, Patient 2 complained  
11 of abdominal pain and had to be admitted to another hospital for further care.

12 14. Respondent's overall acts, and/or omissions, with regard to Patient 2, constituted  
13 unprofessional conduct and/or repeated negligent acts in that:

- 14 a. Following the January 19, 2018 appendix surgery, Respondent failed to leave a  
15 drain in Patient 2 to preclude accumulation of possible infected fluid. This failure  
16 resulted in an infection requiring further intervention and hospitalization.
- 17 b. During the January 23, 2018 drainage procedure, Respondent failed to place  
18 Patient 2 in the reverse Trendelenburg position. It is unclear why Patient 1 was  
19 moved into different positions. Failure to utilize the reverse Trendelenburg  
20 position most likely caused contamination of Patient 2's abdominal cavity, which  
21 subsequently led to Patient 2's post-operative return of abdominal pain.

22 ///

23 \_\_\_\_\_  
24 <sup>8</sup> Hematoma is a sac of blood that accumulates at a surgical site after surgery. This accumulation  
of blood leads to pain, inflammation and discoloration of the skin around the surgical wound.

25 <sup>9</sup> In Trendelenburg, the patient's head is positioned down, and feet positioned up. In Reverse  
26 Trendelenburg, their head is up, and feet are positioned down. The reverse Trendelenburg position is a  
27 position in which the patient's hips and knees are not flexed but the head and the chest are elevated at 30  
28 degrees than the abdomen and legs. This position allows the fluid to drain and collect in the pelvis, which  
can then be removed by aspiration. Failure to utilize the reverse Trendelenburg position allow infected  
fluids to get trapped in other quadrants of the abdomen, which spreads the infection.

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