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

In the Matter of the First Amended Accusation Against: Akash Bajaj, M.D. Physician's and Surgeon's Certificate No. A 83927 Respondent.	Case No.: 800-2019-056941

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 April 26, 2024.

IT IS SO ORDERED: March 27, 2024.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
LATRICE R. HEMPHILL
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **AKASH BAJAJ, M.D.** **13160 Mindanao Way, Suite 300** **Marina del Ray, CA 90292-6393** **Physician's and Surgeon's Certificate No. A 83927,** Respondent.	Case No. 800-2019-056941 OAH No. 2022070169 **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. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill, Deputy Attorney General.

2. Respondent Akash Bajaj, M.D. (Respondent) is represented in this proceeding by attorney Courtney E. Pilchman, Esq., whose address is: 2030 Main Street, Suite 1300, Irvine, CA 92614-7220.

3. On or about July 11, 2003, the Board issued Physician's and Surgeon's Certificate No. A 83927 to Akash Bajaj, 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 First Amended Accusation No. 800-2019-056941, and will expire on May 31, 2025, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2019-056941 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on October 31, 2023. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2019-056941 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 First Amended Accusation No. 800-2019-056941. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended 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 First Amended Accusation No. 800-2019-056941, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in First Amended Accusation No. 800-2019-056941, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 83927 to disciplinary action.

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

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2019-056941 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 83927 issued to Respondent Akash Bajaj, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions:

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

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

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

2. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this

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

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

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

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

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine

safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

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

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

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

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision, First Amended Accusation, and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no

more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

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

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

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period

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

15 calendar days.

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

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

6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, including, but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of $39,781.00 (thirty-nine thousand seven hundred eighty one dollars and zero cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs.

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

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

8. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such

addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training

program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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

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

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

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

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

12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke

Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

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

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

15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2019-056941 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

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ACCEPTANCE

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

DATED: 2.13.24

AKASH BAJAJ, M.D.
Respondent

I have read and fully discussed with Respondent Akash Bajaj, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2/13/24

COURTNEY E. PILCHMAN, 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: _____

Respectfully submitted,

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

LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

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

DATED: _____

AKASH BAJAJ, M.D.
Respondent

I have read and fully discussed with Respondent Akash Bajaj, 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: _____

COURTNEY E. PILCHMAN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: February 14, 2024

Respectfully submitted,

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

LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **AKASH BAJAJ, M.D.** **13160 Mindanao Way, Suite 300** **Marina del Ray, CA 90292** **Physician's and Surgeon's Certificate No. A 83927,** Respondent.	Case No. 800-2019-056941 OAH No. 2022070169 **FIRST AMENDED ACCUSATION**

PARTIES

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

2. On or about July 11, 2003, the Medical Board issued Physician's and Surgeon's Certificate Number A 83927 to Akash Bajaj, 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 May 31, 2025, unless renewed.

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JURISDICTION

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

4. Section 2227 of the Code states:

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

5. Section 2234 of the Code, states:

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

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

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

(d) Incompetence.

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

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

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

6. Section 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

7. Section 125.3 of the Code states:

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

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

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

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

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

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

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

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

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

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

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

DEFINITIONS

8. Thermal facet joint rhizotomy is a procedure that cuts or destroys the medial branch nerves that carry pain signals from the facet joints to the brain, by heating the nerves with radio waves to deaden them and stop them from sending pain signals.

9. Radiofrequency ablation, which is also known as fulguration, is a minimally invasive technique that shrinks the size of tissue or other growths in the body, by using the heat generated from an electrical current that is produced by a radio wave. Radiofrequency ablation is often used to treat chronic back and neck pain.

10. C2-C6 indicate the specific joints between each vertebrae of part of the cervical spine.

11. Spinal cord edema refers to swelling of the spinal cord. The swelling can cause compression and injury to the spinal cord.

12. Intramedullary Hematoma refers to a hemorrhage within the spinal cord.

13. Hemiparesis is weakness or the inability to move on one side of the body.

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14. Diaphragmatic paralysis is a condition in which either the right or left side of the diaphragm loses the ability to contract to allow proper inspiration.

15. Propofol is a drug that slows the activity of your brain and nervous system. It is commonly used as general anesthesia to sedate patients during surgery.

16. Cervical facet intra-articular joint injection is a procedure where steroids are injected into the facet joint, within the neck, that is inflamed or injured, to reduce the pain.

17. Decadron is a corticosteroid, similar to a natural hormone, used to relieve inflammation in various parts of the body.

18. A trigger point injection is a pain management treatment that involves injecting a local anesthetic into a trigger point to relax muscles and relieve pain.

19. A stellate ganglion block is an injection of anesthetic medication into a collection of nerves in the neck, which helps relieve pain in the head, neck, and upper arm and chest.

FACTUAL ALLEGATIONS

20. Respondent is a board-certified anesthesiologist, who is also board-certified in pain management. Respondent owns Remedy Pain Solution, Inc., which has locations in Marina Del Rey, CA and Manhattan Beach, CA.

Patient A

21. Patient A[1] is a seventy-nine (79) year-old woman who first presented to Respondent on or about March 14, 2019, complaining of neck pain primarily on the left side. Patient A had a history of neck pain and headaches, and previously had two temporary nerve blocks. She also tried other conservative therapy to address the pain, including pain medication, physical therapy, and a home exercise plan. While Patient A experienced temporary pain relief after the aforementioned treatments, the pain consistently returned.

22. During the initial visit, Respondent discussed a cervical facet intra-articular joint injection procedure with Patient A. Respondent discussed the risks, benefits, and alternatives with Patient A and she agreed to have the procedure.

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[1] The patients are identified by letter in this Accusation to protect their privacy.

23. On or about March 18, 2019, Patient A presented to Respondent for the joint injection procedure. Following the procedure, Patient A was given ice and monitored for 30 minutes before being discharged.

24. On or about April 8, 2019, April 19, 2019, and May 9, 2019, Patient A again presented to Respondent, complaining of the persistent neck pain. Patient A acknowledged that the previous joint injection provided her some pain relief but the pain soon returned. Respondent assessed Patient A and she agreed to additional joint injection procedures, which he performed during each aforementioned visit.

25. On or about May 31, 2019, Patient A presented to Respondent at Beach District Surgery Center, located at 514 N. Prospect Ave., #100, Redondo Beach, California 90277. Patient A was examined by Respondent and reiterated that she still experienced pain in her neck. Respondent discussed performing a thermal facet joint rhizotomy at Patient A's left C2/3, C3/4, C4/5, and C5/6 levels. After discussion, Patient A consented to the procedure to address her pain.

26. Patient A underwent monitored anesthesia care during the procedure, which consisted of a bolus of approximately 1.5 mg of propofol. According to Respondent's medical records, Patient A's vital signs were stable and she was positioned in a left side up position on the fluoroscopy table, and prepped for surgery. A lateral image was obtained to identify the proposed trajectory towards each cervical level. The radiofrequency ablation was performed at each level on the left.

27. Following the procedure, Patient A was sent to the Post Anesthesia Care Unit. Patient A indicated that she had difficulty moving her left leg and left arm, and was experiencing numbness in those areas. Respondent noted that he and his staff monitored Patient A and her neurological testing for about four hours, and noticed there was a lack of improvement. Subsequently, Respondent decided to transfer Patient A to the hospital for further evaluation.

28. Patient A was transferred to Providence Little Company of Mary Medical Center's (PLCMMC) Emergency Department, located at 4101 Torrance Blvd., Torrance, California 90503.

29. Patient A was admitted to PLCMMC and examined. PLCMMC completed a magnetic resonance imaging (MRI) of Patient A's cervical spine. The MRI revealed multiple

abnormalities, including cervical spine edema with blood in the spinal cord at the C2 level. Additionally, there was a curvilinear signal abnormality with associated enhancement within the midline/right ventral cord at C2, which could have represented a traumatic injury, procedural related injury, or a metastatic lesion. A neurosurgeon reviewed the MRI and recommended that Patient A receive Decadron and be admitted to the intensive care unit (ICU).

30. Ultimately, while at PLCMMC, Patient A was diagnosed with the following: left-sided hemiparesis; intramedullary hematoma at C2; C1-C3 spinal cord edema; and left diaphragmatic paralysis. Doctors provided Patient A with a treatment plan and she was discharged from PLCMMC on or about June 7, 2019.

Patient B

31. Patient B was a fifty-three (53) year-old man who first presented to Respondent in or about 2015, for pain management. Patient B had a history of neck and back pain, edema, hepatitis C, and hypotension, among other things.

32. Respondent treated Patient B through 2017, during which time Patient B was seen by several physicians to address his litany of medical issues.

33. Throughout his treatment of Patient B, on or about December 15, 2015, May 25, 2016, September 14, 2016, January 6, 2017, and March 14, 2017, Respondent performed trigger point injections to address Patient B's back and shoulder pain.

34. Respondent also routinely prescribed Patient B fentanyl[2] patches at high doses, to address his pain, with concomitant prescriptions for diazepam.[3] Respondent also prescribed tramadol, a synthetic opioid analgesic and a Schedule IV controlled substance and a dangerous drug pursuant to Code section 4022, to treat Patient B's pain. Patient B routinely submitted to urine toxicology screenings throughout his treatment with Respondent. Additionally, Respondent communicated with Patient B's other treating physicians regarding his medication regimen and

[2] Fentanyl is a synthetic opioid analgesic used for severe pain. It is 100 times stronger than morphine. It is a Schedule II controlled substance and a dangerous drug pursuant to Code section 4022.

[3] Diazepam is a Schedule IV controlled substance used to treat anxiety disorders, and used with other medications to treat muscle spasms and stiffness. It is a dangerous drug pursuant to Code section 4022.

possible addiction to controlled substances. Accordingly, Respondent knew that Patient B was receiving prescriptions for high dose alprazolam, a benzodiazepine Schedule IV controlled substance and dangerous drug pursuant to Code section 4022.

35. On or about March 14, 2017, Respondent had his last appointment with Patient B. During this appointment, they discussed weaning Patient B off narcotics and resources that could assist. Respondent lowered Patient B's fentanyl patch from 50 micrograms per hour to 25 micrograms per hour (10 units) and 12 micrograms per hour (10 units).

Patient C

36. Patient C is a thirty-nine (39) year-old woman who was referred to Respondent for pain management.

37. On or about October 27, 2021, Respondent performed an initial right-side stellate ganglion block procedure on Patient C.

38. On or about November 17, 2021, Patient C signed a consent form for another stellate ganglion block procedure, as well as a consent for the use of nitrous oxide. The consent form identified possible risks of the procedure, including bleeding, infection, cardiac arrest, and death, among other things.

39. Prior to the procedure, Respondent administered 3 milliliters of 2% lidocaine (local anesthetic) and 5 milliliters of .5% Marcaine (local anesthetic). Subsequently, Respondent performed a left-side stellate ganglion block under fluoroscopic guidance.

40. Following the procedure, Patient C felt nauseous and was administered oxygen. Patient C eventually became unresponsive. Respondent's staff performed CPR until emergency services arrived. Patient C lost her pulse and emergency technicians performed advance cardiac life support measures. Patient C's pulse was regained, she was intubated, and transferred to the intensive care unit at the University of California Los Angeles (UCLA) hospital. It was determined that Patient C suffered cardiac arrest. While at UCLA, the attending physician completed an extensive work-up to rule out potential causes of her cardiac arrest, including a magnetic resonance imaging (MRI) of the brain, computerized tomography (CT) of the head and neck, multiple labs, echocardiogram, and toxicology screens.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

41. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that Respondent was grossly negligent in his treatment of Patient A. The circumstances are as follows:

Patient A

42. Complainant hereby re-alleges the facts set forth in paragraphs 25 through 30, above, as though fully set forth.

43. According to Respondent's records, during Patient A's May 31, 2019 procedure, a lateral image was obtained to visualize the proposed trajectory towards the C2/3 facet medial branch. The skin and tissue was then anesthetized with 1% lidocaine, creating a skin wheal. A needle was inserted through the skin and directed via fluoroscopic navigation towards the target region. The position of the needle was confirmed by anterior posterior (AP) and lateral fluoroscopic views. Once the needle was in place, confirmation of placement was achieved and a similar procedure was performed at C3/4, C4/5, and C5/6. Radiofrequency was undertaken at each level and the needles were removed.

44. The standard of care when performing a radiofrequency ablation is to assess the position of the needles in both an AP view and a lateral view, to ensure the needles are in the proper position and to avoid any critical structures. Additionally, it is the standard of care to document the final needle positions in the two views and save fluoroscopic images.

45. Respondent's records noted that the position of the needles were confirmed by AP and lateral views. However, Respondent's records did not include an AP view. Further, the images included in Respondent's records appear to be slightly oblique views and not true lateral views.

46. Respondent failed to assess and/or document the needle positions through both a true lateral view and an AP view. As a result, the needle was placed too medial.

47. The standard of care when performing a radiofrequency ablation also requires a physician to keep the patient awake, avoiding deep sedation, in order to talk to the patient during

stimulation and thermal lesioning. Feedback from patients can be vital to reduce the potential for severe and permanent complications during an interventional procedure.

48. Respondent's operative report indicates that monitored anesthesia care was used during the procedure. However, in the Pre-Anesthesia Evaluation records, the anesthesiologist for this case, A.C., indicates that general anesthesia was used during the procedure. The anesthesia records note that a 100 mg bolus of propofol was given at the start of the procedure, followed by a continuous propofol drip for the duration of the procedure.

49. The bolus of propofol and continuous propofol drip would cause deep sedation and supports a level of general anesthesia. Additionally, propofol is not recommended for interventional pain procedures because of its potency, which can make a patient unable to communicate when a needle is inadvertently placed incorrectly.

50. Respondent's operative report is silent as to whether Patient A was conscious or conversant during the procedure. However, the level of anesthesia documented supports deep sedation. As such, Patient A was unable to provide feedback during the procedure.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

51. Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that Respondent was negligent in his treatment of Patient A, Patient B, and Patient C. The circumstances are as follows:

52. The facts and allegations set forth in the First Cause for Discipline are incorporated herein by reference as if fully set forth.

53. Each of the alleged acts of gross negligence set forth in the First Cause for Discipline is also a negligent act.

Patient B

54. Complainant hereby re-alleges the facts set forth in paragraphs 31 through 35, above, as though fully set forth.

55. The standard of care calls for a prudent pain management physician to be aware of the safe dosing guidelines for the prescribing of opiates with benzodiazepines and the high risk

the combination prescribing presented for the patient. At no point in his care of Patient B did Respondent address this concomitant prescribing and the associated risks with Patient B. The combination of opioid analgesic with diazepam was not standard of care by 2016, especially when Patient B was on high dose alprazolam.

56. The prescribing of high dose fentanyl and diazepam, while Patient B was also receiving high dose alprazolam from another provider is a departure from the standard of care.

57. The standard of care requires routine physical examinations of patients who are taking high-dose opioid analgesic medications in combination with other controlled substances, particularly high-dose benzodiazepines. The standard of care also requires routine urine toxicology screenings and CURES monitoring.

58. Even though Respondent conducted routine urine toxicology screenings, during the treatment period of Patient B, there was no indication that Respondent conducted routine physical examinations. This constitutes a departure from the standard of care.

Patient C

59. Complainant hereby re-alleges the facts set forth in paragraphs 36 through 40, above, as though fully set forth.

60. The standard of care requires ultrasound guidance when performing a stellate ganglion block, since the collection of nerves in the neck are surrounded by critical soft tissue structures that are only visible under ultrasound guidance. These structures are not visible under fluoroscopic guidance. Ultrasound guidance allows for direct visualization of the needle in real time, so that the critical vascular structures in the neck can be avoided.

61. Although cardiac arrest is a known risk of the stellate ganglion block procedure, it could have been avoided if Respondent had performed the procedure under ultrasound guidance. Respondent's failure to do so constitutes a departure from the standard of care.

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THIRD CAUSE FOR DISCIPLINE

(Incompetence)

62. Respondent is subject to disciplinary action under Code section 2234, subdivision (d), in that he demonstrated a lack of knowledge in the care and treatment of Patient A. The circumstances are as follows:

63. The facts and allegations set forth in the First Cause for Discipline are incorporated herein by reference as if fully set forth.

64. The standard of care when performing a radiofrequency ablation requires the ability to assess and identify any potential complications arising from the procedure.

65. Respondent's operative report notes that two cubic centimeters of 1% lidocaine was used to anesthetize Patient A's skin and subcutaneous tissue at each level. Consequently, Respondent believed that Patient A's post-operative symptoms were the result of the local anesthetic exposure, which causes transient numbness and weakness.

66. One percent lidocaine has a duration of action of one to two hours. As such, any numbness or weakness experienced by Patient A would have been expected to improve about two hours after the procedure, which they did not. Further, Patient A also experienced numbness and weakness to her lower extremities, which would not be caused by the lidocaine.

67. The persistent numbness and weakness, which lasted longer than the duration of lidocaine, and the numbness and weakness to the left leg should have alerted Respondent that Patient A was dealing with a serious complication and not just an effect of the local anesthetic.

68. Respondent failed to identify the symptoms in Patient A and timely diagnose the complications, which resulted in patient harm.

69. Respondent's acts and/or omissions as set forth in paragraphs 64 through 68, above, whether proven individually, jointly, or in any combination thereof, constitute incompetence pursuant to Code section 2234, subdivision (d). Therefore, cause for discipline exists.

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FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Medical Records)

70. Respondent is subject to disciplinary action under Code section 2266 in that Respondent failed to maintain accurate records of his care and treatment of Patient A and Patient C.

71. The facts and allegations set forth in the First Cause for Discipline in paragraphs 41 through 50, above, are incorporated herein by reference as if fully set forth.

72. The facts and allegations set forth in the Second Cause for Discipline in paragraphs 59 through 61, above, are incorporated herein by reference as if fully set forth.

73. The standard of care requires a physician to keep timely and accurate medical records. Despite Respondent first treating Patient C on or about October 27, 2021, he did not complete his operative note for the visit until November 22, 2021. This delay between when he performed a procedure and when he completed the required documentation constitutes a departure from the standard of care.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

74. Respondent is subject to disciplinary action under Code section 2234, subdivision (a), in that Respondent engaged in unprofessional conduct. The circumstances are as follows:

75. The allegations in the First, Second, Third, and Fourth Causes for Discipline, in paragraphs 41 through 73, above, are incorporated herein by reference as if fully set forth.

DISCIPLINARY CONSIDERATIONS

76. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about August 9, 2018, in a prior disciplinary action titled *In the Matter of the Reprimand Against Akash Bajaj, M.D.* before the Medical Board of California, in Case Number 800-2017-029088, Respondent's license was publicly reprimanded for repeated negligent acts and failure to maintain adequate and accurate records. That decision is now final and is incorporated by reference as if fully set forth herein.

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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 83927, issued to Respondent Akash Bajaj, M.D.;

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

3. Ordering Respondent Akash Bajaj, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: OCT 31 2023

REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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