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

In the Matter of the Accusation Against: Bassam C. Moucharafieh, M.D. Physician's & Surgeon's Certificate No. C 37552 Respondent.	Case No. 800-2021-075113

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 03, 2024.

IT IS SO ORDERED: May 03, 2024.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **BASSAM C. MOUCHARAFIEH, M.D.** **1050 E. Yorba Linda Blvd., Suite 205** **Placentia, CA 92870-3730** **Physician's and Surgeon's Certificate No. C 37552,** Respondent.	Case No. 800-2021-075113 OAH No. 2023100937 **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 Karolyn M. Westfall, Deputy Attorney General.

2. Respondent Bassam C. Moucharafieh, M.D. (Respondent) is represented in this proceeding by attorney Gary Wittenberg, Esq., whose address is: 1901 Avenue of the Stars, Suite 1750, Los Angeles, CA 90067.

3. On or about July 18, 1977, the Board issued Physician's and Surgeon's Certificate No. C 37552 to Bassam C. Moucharafieh, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2021-075113, and will expire on March 31, 2025, unless renewed.

JURISDICTION

4. Accusation No. 800-2021-075113 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 September 13, 2023. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2021-075113 is attached as hereto as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2021-075113. 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 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. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No.

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800-2021-075113, and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. C 37552 to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2021-075113 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

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

CONTINGENCY

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

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

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Bassam C. Moucharafieh, M.D., holder of Physician's and Surgeon's Certificate No. C 37552, shall be and hereby is Publicly Reprimanded pursuant to Business and Professions Code section 2227. This Public Reprimand, which is issued in connection with the allegations as set forth in Accusation No. 800-2021-075113, is as follows:

> On or about April 5, 2019, after your patient suffered a calamitous vascular injury and questionable repair during her right breast implant replacement, you negligently performed her left breast implant replacement instead of urgently transporting your patient to the hospital for hemodynamic assessment, as more fully described in Accusation No. 800-2021-075113.

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 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.

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2. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of $8,002.75 (eight thousand two dollars and seventy-five 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. Failure to pay the costs in full within one year of the effective date of the Order shall constitute unprofessional conduct and grounds for further disciplinary action.

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

3. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2021-075113 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.

4. FAILURE TO COMPLY. Any failure by Respondent to comply with terms and conditions of the Stipulated Settlement and Disciplinary Order set forth above shall constitute unprofessional conduct and grounds for further disciplinary action.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gary Wittenberg, 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: 4/12/2024

BASSAM C. MOUCHARAFIEH, M.D.
Respondent

I have read and fully discussed with Respondent Bassam C. Moucharafieh, 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: 4/15/24

GARY WITTENBERG, 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: 4/15/24

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **BASSAM C. MOUCHARAFIEH, M.D.** **1050 E. Yorba Linda Blvd., Suite 205** **Placentia, CA 92870-3730** **Physician's and Surgeon's Certificate No. C 37552,** Respondent.	Case No. 800-2021-075113 **ACCUSATION**

PARTIES

1. Reji Varghese (Complainant) brings this 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 18, 1977, the Medical Board issued Physician's and Surgeon's Certificate No. C 37552 to Bassam C. Moucharafieh, 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 March 31, 2025, 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 states, in pertinent part:

> (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:
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> (1) Have his or her license revoked upon order of the board.
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> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
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> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
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> (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.
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> ...

5. Section 2234 of the Code, states, in pertinent part:

> 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:
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> (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.
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> ...
>
> (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.
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> (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.

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(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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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 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.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. C 37552 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

9. On or about January 3, 2019, Patient A, a fifty-five year old female, presented to European Outpatient Surgery Center (EOSC) for an initial consultation for breast implant removal and replacement, and met with Respondent. Patient A's medical history included, but was not limited to, saline breast implants in 2008, liposuction in 2017, and a "donut lift.[2]" Patient A informed Respondent that she desired larger implants. On that date, or any date thereafter,

[1] To protect the privacy of the patient involved, the patient's name has not been included in this pleading. Respondent is aware of the identity of the patient referred to herein.

[2] A breast "donut lift" is a breast lift intended to address mild-to-moderate sagging.

Respondent did not perform and/or document a history or physical exam of Patient A, and did not request or obtain Patient A's prior medical records, lab work, or medical clearance for surgery from Patient A's primary care physician.

10. On or about January 8, 2019, Patient A presented to EOSC for surgery. On that date, Respondent performed a bilateral saline implant removal, bilateral capsulotomy, liposuction of the right axillary breast, and placement of Mentor smooth round 750-900 cc implants that were filled to 960 cc on the right and 965 cc on the left. Respondent's handwritten operative report does not identify the plane that the implants were removed from or replaced to, and did not include estimated blood loss, the presence or absence of complications, or surgical time. In addition, the Mentor implant labels do not identify the date and fill volumes.

11. On or about January 29, 2019, Patient A presented to EOSC for her first post-operative visit and was seen by Respondent. At that visit, Respondent noted Patient A's incisions were healed; and Patient A expressed her desire for larger implants. At the conclusion of the visit, Respondent recommended Patient A return to the clinic in two months.

12. On or about March 23, 2019, Patient A presented to EOSC for her second post-operative visit and was seen by Respondent. At that visit, Respondent noted Patient A's breasts looked good, but once again, Patient A informed Respondent that she would like bigger implants. Respondent recommended that Patient A keep the current implants but enlarge them from 960 cc to 1100 cc. On that date or any date thereafter, Respondent did not perform and/or document a history or physical exam of Patient A, and did not request or obtain any of Patient A's prior medical records, lab work, or medical clearance for surgery from Patient A's primary care physician. At the conclusion of the visit, Respondent recommended Patient A return to the clinic in one month.

13. On or about April 5, 2019, Patient A unexpectedly presented to EOSC, believing that to be the date of her scheduled surgery. On that date, Patient A signed consent forms for bilateral removal and replacement breast augmentation, and was taken back for surgery with Respondent. As Respondent began to work on Patient A's right breast, he encountered adhesions in the right superior implant pocket, and upon dissecting muscle away from the capsule, he noted brisk

bleeding from the superior lateral aspect of the chest. Respondent ordered tumescent with epinephrine and packed the area, but was unable to control the bleeding. Respondent was able to apply clamps with much difficulty and visualization was not possible. With an estimated blood loss of approximately one unit, Respondent attempted to reach a vascular surgeon for assistance without success. Respondent also contacted multiple facilities to obtain necessary blood products without success. Respondent determined that transporting Patient A emergently to the hospital could have caused a dislodgment of the clamps, which he believed would have resulted in hemorrhaging and possible death. Respondent then explored the bleeding through a direct right infraclavicular approach. Respondent located and then repaired three large bleeding veins and one artery, which were all technically difficult. After he was finally able to complete the repair and control the bleeding, Respondent then completed the planned augmentation surgery to Patient A's right breast. After completing the right breast, Respondent then completed the planned augmentation surgery to Patient A's left breast. Respondent replaced both implants with Mentor smooth round 800-960 cc implants that were filled with 1200 cc. Respondent's handwritten operative report does not contain the vascular status of Patient A's right upper extremity, the total amount of blood loss, a detailed description of the left breast surgery, or surgical time. In addition, the Mentor implant labels do not identify the date and fill volumes.

14. At the conclusion of the surgery, Patient A was transferred by ambulance to Fountain Valley Hospital emergency department for blood transfusions.

15. Upon arrival at the emergency department, Patient A was diagnosed with hemorrhagic shock, hemothorax, arterial injury, and perioperative bleeding. A chest x-ray revealed an abrupt cut-off of Patient A's right subclavian artery just distal to the right brachiocephalic junction with non-visualization of the right axillary artery, worrisome for underlying right subclavian artery injury. Patient A was administered four (4) units of packed red blood cells and subsequently transferred to UCI Hospital for emergent vascular surgery.

16. Upon arrival at UCI Hospital, Patient A was diagnosed with right upper extremity ischemia and right upper extremity compartment syndrome. Patient A subsequently underwent

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vascular surgery, which included a right axillary artery interposition bypass graft with reversed saphenous vein and harvest of the left saphenous vein.

17. Respondent committed negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

A. Performing Patient A's left breast implant replacement instead of urgently transporting Patient A to the hospital for hemodynamic assessment after Patient A suffered a calamitous vascular injury and questionable repair during Patient A's right breast implant replacement; and

B. Failing to maintain adequate records for Patient A's surgeries on or about January 8, 2019, and on or about April 5, 2019.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

18. Respondent has further subjected his Physician's and Surgeon's Certificate No. C 37552 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A, as more particularly alleged in paragraphs 8 through 17(B), above, which are hereby incorporated by reference and realleged 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 No. C 37552, issued to Respondent Bassam C. Moucharafieh, M.D.;

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

3. Ordering Respondent Bassam C. Moucharafieh, 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: SEP 13 2023

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

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