

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

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

Allan Akerman, M.D.

**Physician's and Surgeon's
Certificate No. A 91309**

Respondent.

Case No.: 800-2021-084420

DECISION

The attached Stipulated Settlement and Disciplinary 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 05, 2024.

IT IS SO ORDERED: May 06, 2024.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 **ALLAN AKERMAN, M.D.**
15 **1310 W Stewart Drive, Ste. 307**
16 **Orange, CA 92868-3838**

17 **Physician's and Surgeon's Certificate**
No. A 91309

18 Respondent.

Case No. 800-2021-084420

OAH No. 2023110461

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

22 **PARTIES**

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

27 2. Respondent Allan Akerman, M.D. (Respondent) is represented in this proceeding by
28 attorney Raymond J. McMahon, Esq., whose address is: 5440 Trabuco Road, Irvine, CA 92620.

1 3. On or about May 20, 2005, the Board issued Physician's and Surgeon's Certificate
2 No. A 91309 to Allan Akerman, M.D. (Respondent). The Physician's and Surgeon's Certificate
3 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-
4 2021-084420, and will expire on May 31, 2025, unless renewed.

5 **JURISDICTION**

6 4. On September 21, 2023, Accusation No. 800-2021-084420 was filed before the Board
7 and is currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent on September 21, 2023. Respondent timely filed
9 his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2021-084420 is
10 attached as Exhibit A and incorporated herein by reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, fully discussed with counsel, and fully understands the
13 charges and allegations in Accusation No. 800-2021-084420. Respondent has also carefully read,
14 fully discussed with his counsel, and fully understands the effects of this Stipulated Settlement
15 and Disciplinary Order.

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

22 7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently
23 waives and gives up each and every right set forth above.

24 **CULPABILITY**

25 8. Respondent does not contest that, at an administrative hearing, Complainant could
26 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
27 No. 800-2021-084420 and that his Physician's and Surgeon's Certificate No. A 91309 is therefore
28 subject to discipline.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 91309 issued
3 to Respondent Allan Akerman, M.D. is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for one (1) year from the effective date of the Decision, on the
5 terms and conditions set out below. This Order supersedes the probationary order in Case No.
6 800-2017-030133:

7 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
8 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
9 for its prior approval educational program(s) or course(s) which shall not be less than 60 hours
10 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
11 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
12 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
13 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
14 completion of each course, the Board or its designee may administer an examination to test
15 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 85
16 hours of CME of which 60 hours were in satisfaction of this condition.

17 2. **NOTIFICATION.** Within seven (7) days of the effective date of this Decision, the
18 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
19 Chief Executive Officer at every hospital where privileges or membership are extended to
20 Respondent, at any other facility where Respondent engages in the practice of medicine,
21 including all physician and *locum tenens* registries or other similar agencies, and to the Chief
22 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
23 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
24 calendar days.

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

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

1 4. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
2 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
3 limited to, expert review, legal reviews, and investigation(s), in the amount of \$19,805.25
4 (nineteen thousand eight hundred five dollars and twenty-five cents). Costs shall be payable to
5 the Medical Board of California. Failure to pay such costs shall be considered a violation of
6 probation.

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

11 The filing of bankruptcy by respondent shall not relieve Respondent of the responsibility to
12 repay investigation and enforcement costs, including expert review costs.

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

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

18 6. GENERAL PROBATION REQUIREMENTS.

19 Compliance with Probation Unit

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

21 Address Changes

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

27 Place of Practice

28 Respondent shall not engage in the practice of medicine in Respondent's or patient's place

1 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
2 facility.

3 License Renewal

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

6 Travel or Residence Outside California

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

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

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

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

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1 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
2 period of non-practice.

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

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

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

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

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

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

27 11. LICENSE SURRENDER. Following the effective date of this Decision, if
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

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

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

14 13. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
15 a new license or certification, or petition for reinstatement of a license, by any other health care
16 licensing action agency in the State of California, all of the charges and allegations contained in
17 Accusation No. 800-2021-084420 shall be deemed to be true, correct, and admitted by
18 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
19 restrict license.

20 ACCEPTANCE

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Raymond J. McMahon, Esq. I fully understand the stipulation and
23 the effect it will have on my Physician's and Surgeon's Certificate A 91309. Having the benefit
24 of counsel, I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
25 and intelligently, and agree to be bound by the Decision and Order of the Medical Board of
26 California.

27 DATED: April 10th, 2024

Allan Akerman
ALLAN AKERMAN, M.D.
Respondent

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I have read and fully discussed with Respondent Allan Akerman, 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: April 10, 2024



RAYMOND J. MCMAHON, 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: April 17, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General


TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

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

12
13 In the Matter of the Accusation Against:

Case No. 800-2021-084420

14 **ALLAN AKERMAN, M.D.**
1310 W Stewart Dr Ste 307
15 Orange, CA 92868-3838

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 91309,**

Respondent.

18
19 **PARTIES**

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

23 2. On or about May 20, 2005, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 91309 to Allan Akerman, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on May 31, 2025, unless renewed.

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JURISDICTION

1
2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2004 of the Code states:

6 The board shall have the responsibility for the following:

7 (a) The enforcement of the disciplinary and criminal provisions of the Medical
8 Practice Act.

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

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

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

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

14 ...

15 5. Section 2220 of the Code states:

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

21 6. Section 2227 of the Code states:

22 (a) A licensee whose matter has been heard by an administrative law judge of
23 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
24 into a stipulation for disciplinary action with the board, may, in accordance with the
25 provisions of this chapter:

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

27 (2) Have his or her right to practice suspended for a period not to exceed one
28 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.

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

3 (5) Have any other action taken in relation to discipline as part of an order of
4 probation, as the board or an administrative law judge may deem proper.

5 ...

6 STATUTORY PROVISIONS

7 7. Section 2234 of the Code states:

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

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

12 (b) Gross negligence.

13 (c) Repeated negligent acts. To be repeated, there must be two or more
14 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.

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

17 (2) When the standard of care requires a change in the diagnosis, act, or
18 omission that constitutes the negligent act described in paragraph (1), including, but
19 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.

20 ...

21 8. Section 2266 of the Code states:

22 The failure of a physician and surgeon to maintain adequate and accurate
23 records relating to the provision of services to their patients constitutes unprofessional
conduct.

24 COST RECOVERY

25 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licensee found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licensee to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FACTUAL ALLEGATIONS**

4 10. In August 2018, Patient¹ had a history of heavy bleeding for fifteen (15) years, among
5 other complaints, and a sonogram showed an enlarged fibroid uterus with the largest measuring
6 4.7 centimeters. Patient had finished with fertility and wanted a hysterectomy, for which she was
7 referred to Respondent by her primary care practitioner.

8 11. The standard of care for performing hysterectomies is to take all measures to detect
9 endometrial carcinoma before, or during, hysterectomy. Evaluation measures typically include
10 endometrial sampling procedures like endometrial biopsy (EMB²), and dilation and curettage
11 (D&C) with or without hysteroscopy.

12 12. Failure to properly manage the risk of occult malignancy raises the possibility of the
13 need for a second surgery for lymph node evaluation and/or oophorectomy, with the risk of
14 morbidity that may accompany a second surgery.

15 13. On or about August 28, 2018, Patient presented to Respondent's office and was seen
16 by a nurse practitioner. After her consultation with the nurse practitioner, Patient was scheduled
17 for a return visit to see Respondent for an EMB and to discuss surgery.

18 14. Patient's prior surgical history included a splenectomy,³ from which she bore a
19 vertical scar on her abdomen. Patient informed Respondent of her splenectomy.

20 15. Respondent saw Patient on or about September 17, 2018. He conducted a physical
21 exam, as well as an EMB (the September EMB). His progress notes for this visit include a
22 request by Respondent to his staff to schedule a total abdominal hysterectomy (TAH) and
23 bilateral salpingectomy (BS [removal of both fallopian tubes]).

24 ¹ The identity of the patient is known to all parties but not disclosed for privacy reasons.

25 ² An Endometrial Biopsy (EMB) is a biopsy of the uterus lining. A small sample of the
26 endometrium – the inner tunica mucosa found inside the uterus – is collected in order to detect
any issues or complications.

27 ³ A splenectomy is the surgical removal of the spleen. The spleen plays a crucial role in
28 the immune system, and people with an absent or dysfunctional spleen have an increased risk of
developing severe infections such as pneumonia, septicemia and meningitis.

1 16. Nowhere in Respondent's chart for Patient is it recorded that Patient has had a
2 splenectomy.

3 17. On or about October 19, 2018, the pathology report on the September EMB indicated
4 the following:

5 Diagnosis:

6 Disrupted fragments of endometrium showing focal atypical surface glands and
focally crowded and complex underlying endometrial glands.

7 Comment:

8 The findings are suspicious for endometrial intraepithelial neoplasia (atypical
endometrial hyperplasia). **A serous carcinoma⁴ also cannot be excluded.**
9 **Repeat endometrial sampling is suggested.** (Emphasis added.)

10 Immunostains for P53 show focal increased nuclear staining and in the same
area K167 demonstrates an increase in proliferative activity. P16 is strongly
11 positive and WT1 shows positive staining of the stromal cells but negative
staining of the glandular epithelium. All controls are stained appropriately.

12 18. At an interview with the Board, on or about July 20, 2023 (the Board interview),
13 Respondent explained his understanding of this result as meaning "that they for sure see
14 endometrial hyperplasia with atypia, which carries a 28 to 30 percent risk of, uh, developing into
15 cancer within five years of no treatment, and then they say that they cannot absolutely rule out a
16 serous, uh, adenocarcinoma."

17 19. The abnormal results of the September EMB were reported to Patient on or about
18 October 30, 2018, and a repeat EMB was scheduled, as indicated by the pathologist.

19 20. On or about November 2, 2018, Patient underwent a repeat EMB (the November
20 EMB).

21 21. On or about November 6, 2018, the pathology report of the November EMB indicated
22 the following:

23 Material submitted:

Endometrial biopsy.

24 Diagnosis:

25 Endometrial biopsy:

26 ⁴ Uterine serous carcinoma (USC) is a rare and aggressive variant of endometrial cancer.
27 Serous uterine cancers have a high rate of metastasis to the omentum and peritoneal surfaces.
28 Survival rates are only 30% to 50%, even when the disease is confined to the uterus, and the
median survival is significantly shorter than that for endometrioid adenocarcinoma.

1 Blood and fragments of benign endocervical⁵ tissue. Negative for dysplasia
2 and malignancy. **No endometrial tissue identified.**

3 22. The standard of care at this point would be to perform a D&C, or a D&C with
4 hysteroscopy. Both of these could have been performed at the time of Patient's scheduled
5 hysterectomy, with specimens sent to pathology for testing then and there. If the results proved
6 positive for malignancy, the standard of care would have required multiple further steps during
7 the surgery, with the dual aims of staging the cancer and avoiding putting the patient through a
8 second surgery.

9 23. As a further consequence of not having ruled out a possibly significant carcinoma
10 prior to surgery, and to avoid putting the patient through unnecessary further procedures, a gyn-
11 oncologist should have been on standby to assist in the event that the pathology (if performed
12 during the hysterectomy) showed carcinoma.

13 24. Respondent's office chart for Patient shows that, on or about November 6, 2018,
14 following receipt of the November EMB results, his office staff contacted him to find out what he
15 wanted to do: no endometrial cells had been obtained by the November EMB, but the TAH and
16 BS surgery had already been scheduled. Respondent responded that the November EMB had
17 yielded a better sample than the September EMB; he was "reassured" that there was no cancer.

18 25. On or about or during the period November 6 through December 3, 2018, Patient was
19 informed by Respondent and/or his staff that the November EMB showed no cancer. Patient was
20 not informed that the November EMB had not included any endometrial cells and therefore had
21 not provided any additional material so as to confirm or rule out a serous carcinoma.

22 26. Other than the reference to the conversation between Respondent and his staff on or
23 about November 6, 2018, Respondent's chart for Patient makes no reference to the unsuccessful
24 November EMB, or to the need for any further endometrial sampling, either before or during the
25 hysterectomy.

26 27. No further endometrial testing was performed or discussed with Patient.

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28 ⁵ Endocervical tissue is tissue from the inner cervix (endocervix).

1 28. Patient had the TAH and BS surgery as scheduled, on or about the morning of
2 December 3, 2018. A D&C was not performed, and a gyn-oncologist was not consulted.

3 29. Respondent's hospital chart for Patient on December 3 and 4, 2018, makes no
4 reference to any further endometrial sampling, either before or during the hysterectomy, or a
5 discussion of the possibility of the presence of a serous carcinoma.

6 30. Premature post-surgery discharge from hospital, as indicated by the presence of
7 unresolved clinical instabilities at discharge, is associated with higher post-discharge mortality
8 and readmission rates.

9 31. Vital signs are an objective measurement of the essential physiological functions of a
10 living organism. Their measurement and assessment is a critical step for any clinical evaluation.

11 32. Standard of care in discharging a patient after surgery is to assess the stability of the
12 patient's vital signs in the twenty-four (24) hours prior to discharge, and to discharge the patient
13 only if twenty-four (24) hours have passed without fever. The attending physician has the
14 responsibility to review the chart and ensure the documented communications from the health
15 care team are reviewed prior to discharging the patient.

16 33. Patient's hospital record shows that, on December 4, 2018, Patient had a temperature
17 of 100.8 at 00:51 a.m. At 8:00 p.m. on December 4, 2018, Patient's temperature was 101.1.
18 Respondent ordered a complete blood count (CBC), and cooling measures were performed. On
19 December 5, 2018, at 00:42 a.m., Patient's temperature was 98.9.

20 34. At the Board interview, Respondent confirmed that his normal practice would have
21 been to "keep the patient under observation at least for 24 hours ... afebrile." In this instance,
22 however, according to Respondent, he "was never informed about those fevers [on December 4,
23 2018]" and "was never informed about that fever that night [at 8:00 p.m. on December 4, 2018]."
24 Instead, Respondent claimed, he was told by the nurse, in error, "Your patient is ready to go. By
25 the way, there was a low-grade fever of 100.1 last night." (Emphasis added.)

26 35. Respondent discharged Patient home at or around 11:20 a.m. on the morning of
27 December 5, 2018.

28 ////

1 36. On or about December 10, 2018, Patient was seen by Respondent at his office for
2 post-operation staple removal. Respondent's progress notes for this visit state Patient
3 "[complained of] low grade fever 'subjective.'" Patient's temperature was not taken or recorded
4 in her chart.

5 37. On or about December 12, 2018, Patient presented to Respondent's office and was
6 seen by a nurse practitioner. Patient complained of vomiting, swelling and pain to her abdomen,
7 and was advised to go to the Emergency Department. Patient was admitted for treatment of
8 serious infection and its consequences, and discharged home on or about January 7, 2019.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 38. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined
12 by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care
13 and treatment of Patient, as more fully set out in paragraphs 10 through 37 above, which are
14 hereby realleged and incorporated by this reference as if fully set forth herein, in that Respondent
15 failed to work up Patient appropriately for her hysterectomy, which included, but is not limited to,
16 Respondent's failure to read and/or interpret the result of the November EMB correctly and/or
17 convey that result to Patient with care and accuracy, and/or his failure to rule out the presence of a
18 serous carcinoma either before performing, or during, a hysterectomy on Patient.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Repeated Negligent Acts)**

21 39. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
22 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent
23 acts in his care and treatment of Patient, as more fully set out in paragraphs 10 through 38 above,
24 which are hereby realleged and incorporated by this reference as if fully set forth herein, and that
25 include, but are not limited to:

26 40. Respondent failed to work up Patient appropriately for her hysterectomy, which
27 included, but is not limited to, Respondent's failure to read and/or interpret the result of the
28 November EMB correctly and/or convey that result to Patient with care and accuracy, and/or his

1 failure to rule out the presence of a serous carcinoma either before performing, or during, a
2 hysterectomy on Patient.

3 41. Respondent failed to document Patient's splenectomy.

4 42. Respondent failed to review the hospital medical records and/or failed to take note of
5 Patient's recorded fevers on or about December 4, 2018, less than twenty-four (24) hours before
6 he discharged her from hospital, at or around 11:20 a.m. on or about December 5, 2018.

7 43. On or about December 10, 2018, Respondent failed to address Patient's complaint of
8 a low grade fever, and/or failed to take and/or document Patient's temperature in her chart.

9 **THIRD CAUSE FOR DISCIPLINE**

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

11 44. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
12 defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records
13 of his care and treatment of Patient, as more particularly alleged in paragraphs 10 through 37,
14 above, which are hereby realleged and incorporated by this reference as if fully set forth herein.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(General Unprofessional Conduct)**

17 45. Respondent is further subject to disciplinary action under section 2234 of the Code in
18 that he has engaged in conduct which breaches the rules or ethical code of the medical profession,
19 or conduct that is unbecoming to a member in good standing of the medical profession, and which
20 demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10
21 through 44, above, which are hereby realleged and incorporated by this reference as if fully set
22 forth herein.

23 **DISCIPLINARY CONSIDERATIONS**

24 46. To determine the degree of discipline, if any, to be imposed on Respondent Allan
25 Akerman, M.D., Complainant alleges that on or about September 25, 2020, in a prior disciplinary
26 action titled *In the Matter of the Accusation Against Allan Akerman, M.D.*, before the Medical
27 Board of California, in Case Number 800-2017-030133, Respondent's license was placed on
28 probation for three years for gross negligence, repeated negligent acts, and the failure to maintain

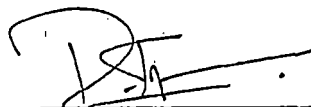
1 adequate and accurate records, in his care and treatment of a single patient. That decision is now
2 final and is incorporated by reference as if fully set forth herein.

3 **PRAYER**

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

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 91309,
7 issued to Respondent Allan Akerman, M.D.;
- 8 2. Revoking, suspending or denying approval of Respondent Allan Akerman, M.D.'s
9 authority to supervise physician assistants and advanced practice nurses;
- 10 3. Ordering Respondent Allan Akerman, M.D., to pay the Board the costs of the
11 investigation and enforcement of this case, and if placed on probation, the costs of probation
12 monitoring; and
- 13 5. Taking such other and further action as deemed necessary and proper.

14
15 DATED: SEP 21 2023



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

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