

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

In the Matter of the Accusation
Against:

Andrew Hany Messiha, M.D.

Physician's and Surgeon's
Certificate No. A 135825

Respondent.

Case No.: 800-2021-077495

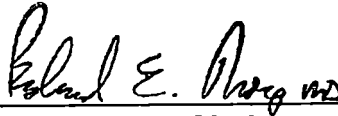
DECISION

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 21, 2024.

IT IS SO ORDERED: May 23, 2024.

MEDICAL BOARD OF CALIFORNIA



Richard E. Thorp, Chair
Panel B

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 ROBERT W. LINCOLN
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

14 **ANDREW HANY MESSIHA, M.D.**
23521 Paseo De Valencia, Suite 204
15 Laguna Hills, California 92653

16 **Physician's and Surgeon's Certificate No. A**
135825

17 Respondent.

Case No. 800-2021-077495

OAH No. 2023070817

18 **STIPULATED SETTLEMENT AND**
19 **DISCIPLINARY ORDER**

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 Robert W. Lincoln, Deputy
26 Attorney General.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2021-077495, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. Respondent does not contest that, at an administrative hearing, complainant could
6 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
7 2021-077495, a true and correct copy of which is attached hereto as Exhibit A, and that he has
8 thereby subjected his Physician's and Surgeon's Certificate, No. A 135825 to disciplinary action.

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

12 CONTINGENCY

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

23 13. Respondent agrees that if he ever petitions for early termination or modification of
24 probation, or if an accusation and/or petition to revoke probation is filed against him before the
25 Board, all of the charges and allegations contained in Accusation No. 800-2021-077495 shall be
26 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
27 other licensing proceeding involving Respondent in the State of California.

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

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 135825 issued
9 to Respondent Andrew Hany Messiha, M.D. is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for thirty-five (35) months on the following terms and
11 conditions:

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

22 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
23 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
24 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
25 Respondent shall participate in and successfully complete that program. Respondent shall
26 provide any information and documents that the program may deem pertinent. Respondent shall
27 successfully complete the classroom component of the program not later than six (6) months after
28 Respondent's initial enrollment, and the longitudinal component of the program not later than the

1 time specified by the program, but no later than one (1) year after attending the classroom
2 component. The professionalism program shall be at Respondent's expense and shall be in
3 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

4 A professionalism program taken after the acts that gave rise to the charges in the
5 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
6 or its designee, be accepted towards the fulfillment of this condition if the program would have
7 been approved by the Board or its designee had the program been taken after the effective date of
8 this Decision.

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

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

17 The program shall consist of a comprehensive assessment of Respondent's physical and
18 mental health and the six general domains of clinical competence as defined by the Accreditation
19 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
20 Respondent's current or intended area of practice. The program shall take into account data
21 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
22 Accusation(s), and any other information that the Board or its designee deems relevant. The
23 program shall require Respondent's on-site participation as determined by the program for the
24 assessment and clinical education and evaluation. Respondent shall pay all expenses associated
25 with the clinical competence assessment program.

26 At the end of the evaluation, the program will submit a report to the Board or its designee
27 which unequivocally states whether the Respondent has demonstrated the ability to practice
28 safely and independently. Based on Respondent's performance on the clinical competence

1 assessment, the program will advise the Board or its designee of its recommendation(s) for the
2 scope and length of any additional educational or clinical training, evaluation or treatment for any
3 medical condition or psychological condition, or anything else affecting Respondent's practice of
4 medicine. Respondent shall comply with the program's recommendations.

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

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

16 Within 60 days after Respondent has successfully completed the clinical competence
17 assessment program, Respondent shall participate in a professional enhancement program
18 approved in advance by the Board or its designee, which shall include quarterly chart review,
19 semi-annual practice assessment, and semi-annual review of professional growth and education.
20 Respondent shall participate in the professional enhancement program at Respondent's expense
21 during the term of probation, or until the Board or its designee determines that further
22 participation is no longer necessary.

23 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
24 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
25 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
26 licenses are valid and in good standing, and who are preferably American Board of Medical
27 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
28 relationship with Respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
2 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
3 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

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

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

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

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

26 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
27 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
28 name and qualifications of a replacement monitor who will be assuming that responsibility within

1 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
2 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
3 notification from the Board or its designee to cease the practice of medicine within three (3)
4 calendar days after being so notified. Respondent shall cease the practice of medicine until a
5 replacement monitor is approved and assumes monitoring responsibility.

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

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

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

20 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
21 NURSES. During probation, Respondent is not prohibited from supervising physician assistants
22 and advanced practice nurses.

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

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27 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
28 ordered to reimburse the Board its costs of investigation and enforcement, including, but not

1 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
2 enforcement, as applicable, in the amount of \$26,786.40 (twenty-six thousand seven hundred
3 eighty-six dollars and forty cents). Costs shall be payable to the Medical Board of California.
4 Failure to pay such costs shall be considered a violation of probation.

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

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

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

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

16 10. GENERAL PROBATION REQUIREMENTS.

17 Compliance with Probation Unit

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

19 Address Changes

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

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1 Place of Practice

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

5 License Renewal

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

8 Travel or Residence Outside California

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

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

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

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

1 on probation with the medical licensing authority of that state or jurisdiction shall not be
2 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
3 period of non-practice.

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

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

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

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

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

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

28 15. LICENSE SURRENDER. Following the effective date of this Decision, if

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

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

15 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
16 a new license or certification, or petition for reinstatement of a license, by any other health care
17 licensing action agency in the State of California, all of the charges and allegations contained in
18 Accusation No. 800-2021-077495 shall be deemed to be true, correct, and admitted by
19 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
20 restrict license.

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28 ACCEPTANCE

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

6
7 DATED: April 5, 2024 
8 ANDREW HANY MESSIHA, M.D.
9 *Respondent*

10 I have read and fully discussed with Respondent Andrew Hany Messiha, M.D. the terms
11 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
12 Order. I approve its form and content.

13 DATED: April 5, 2024 
14 RAYMOND J. MCMAHON, ESQ.
15 *Attorney for Respondent*

16 **ENDORSEMENT**

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

19 DATED: 4/5/2024

20 Respectfully submitted,
21 ROB BONTA
22 Attorney General of California
23 ALEXANDRA M. ALVAREZ
24 Supervising Deputy Attorney General

25 /s. Robert W. Lincoln
26 ROBERT W. LINCOLN
27 Deputy Attorney General
28 *Attorneys for Complainant*

SD2022304398

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8 *Attorneys for Complainant*

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

**Andrew Hany Messiha, M.D.
23521 Paseo de Valencia, Suite 204
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**Physician's and Surgeon's Certificate
No. A 135825,**

Respondent.

Case No. 800-2021-077495

ACCUSATION

PARTIES

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

2. On or about April 23, 2015, the Medical Board issued Physician's and Surgeon's Certificate No. A 135825 to Andrew Hany Messiha, 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 April 30, 2025, unless renewed.

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1 **JURISDICTION**

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

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

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

13 ...

14 (b) Gross negligence.

15 ...

16 6. Unprofessional conduct under Business and Professions Code section 2234 is conduct
17 which breaches the rules or ethical code of the medical profession, or conduct which is
18 unbecoming a member in good standing of the medical profession, and which demonstrates
19 an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81
20 Cal.App.3d 564, 575.

21 **COST RECOVERY**

22 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

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1 **FIRST CAUSE OF DISCIPLINE**

2 **(Gross Negligence)**

3 8. Respondent has subjected his Physician's and Surgeon's Certificate No. A 135825 to
4 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
5 the Code, in that he was grossly negligent in his care and treatment of Patient A,¹ as more
6 particularly alleged hereafter:

7 9. Patient A was a 63-year-old female at the time of her treatment by Respondent.
8 Respondent began treating Patient A on or about January 2018 for chronic neck pain caused by a
9 failed multilevel cervical fusion.

10 10. Patient A presented with chronic neck pain secondary to a failed multilevel
11 cervical fusion. In February 2018, Respondent proceeded with a cervical spinal cord stimulator
12 (cSCS)² trial for the patient's chronic neck pain and cervical radiculitis³.

13 11. Respondent discussed the procedure's risks, benefits, and alternatives with Patient
14 A. There is no evidence of a preoperative cervical spine MRI being performed on Patient A or
15 any previous cervical spine imaging documented in the records.

16 12. On July 20, 2018, the proposed cSCS trial was attempted. A 14 gauge 4 inch
17 Boston Scientific Touhy needle was introduced into C7-T1 interspace. The needle was unable to
18 be placed at the ligamentum flavum⁴ due to significant calcification at this level. Respondent
19 decided to abort the procedure at this level, and instead gain entry via an upper lumbar approach.
20 Two trial leads were inserted at the L2-3 level, and placed uneventfully, in the posterior epidural
21 space at the C2-C3 level. After the procedure Patient A was placed back on to a transport bed
22 and taken to Post Anesthesiology Care Unit (PACU).

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

27 ² Cervical Spinal Cord Simulator (cSCS) - delivers mild electrical stimulation to nerves
28 along the spinal column, modifying or blocking nerve activity in a non-medicinal way to
minimize the sensation of pain reaching the brain.

³ Cervical radiculitis - refers to pain felt in the uppermost section of the spinal cord.

⁴ Ligamentum flavum - is a short but thick ligament that connects the laminae of adjacent
vertebrae C2 to S1.

1 13. In PACU, Patient A developed severe new-onset right ankle/leg pain. The pain
 2 was present one hour post-operative with her crying. Respondent removed the cSCS leads and
 3 transferred the patient to the emergency room for a thorough evaluation and imaging for the right
 4 lower extremity symptoms. The patient developed increased pain and weakness in the recovery
 5 room in the right leg and ankle. Patient A was transferred to the hospital for further medical
 6 attention. Consultation with Neurology and a Neurosurgeon was obtained. Patient A's
 7 neurological symptoms worsened, and she developed bilateral lower extremity weakness with a
 8 neurogenic bladder. An MRI showed cord edema at the C7-T1 level. It was determined that
 9 Respondent inadvertently penetrated the spinal cord causing paraplegia⁵ and other injuries.
 10 Patient A was subsequently discharged to perform long term rehabilitation.

11 14. Respondent committed gross negligence in his care and treatment of Patient A by
 12 failing to obtain a cervical spine MRI before the cSCS trial, secondly, for failure to keep Patient
 13 A sufficiently alert to provide feedback to the physician, including the ability to report pain or
 14 paresthesia that may provide valuable information to the physician. Finally, even after post-
 15 operative cervical spine cord edema at the C7-T1 level, Respondent failed to realize that Patient
 16 A's symptoms were related to his inadvertent needle placement.

17 **SECOND CAUSE OF DISCIPLINE**

18 **(Unprofessional Conduct)**

19 15. Respondent has further subjected his Physician's and Surgeon's Certificate No.
 20 A 135825 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
 21 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
 22 unbecoming a member in good standing of the medical profession, and which demonstrates an
 23 unfitness to practice medicine, as more particularly alleged in paragraphs 8 through 15, above,
 24 which are hereby incorporated by reference and realleged as if fully set forth herein.

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27 ⁵ Paraplegia – paralysis of the legs and lower body, typically caused by spinal injury or
 28 disease.

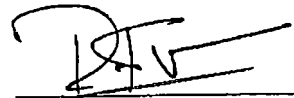
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PRAYER

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. A 135825, issued to Andrew Hany Messiha, M.D.;
2. Revoking, suspending or denying approval of Andrew Hany Messiha, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Andrew Hany Messiha, 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: JUN 29 2023



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

SD2022304398