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

In the Matter of the Accusation Against:	)	
Anthony Steven Bianchi, M.D.	)	Case No. 800-2013-001744
Physician's and Surgeon's Certificate No. A 63365	)	
Respondent	)	

DECISION

The attached Stipulation 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 16, 2016.

IT IS SO ORDERED: May 17, 2016.

MEDICAL BOARD OF CALIFORNIA

Jamie Wright, Esq., Chair
Panel A

KAMALA D. HARRIS
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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: **ANTHONY S. BIANCHI, M.D.** **P.O. Box 1809** **Fallbrook, CA 92028-1089** **Physician's and Surgeon's Certificate No. A63365** Respondent.	Case No. 800-2013-001744 OAH No. 2015060815 **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. Kimberly Kirchmeyer (complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity as such and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Karolyn M. Westfall, Deputy Attorney General.

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2. Respondent Anthony S. Bianchi, M.D. (respondent) is represented in this proceeding by attorney Henry Lewin of Lewin & Levin, 11377 West Olympic Blvd., Fifth Floor, Los Angeles, CA 90064-1683.

3. On or about August 29, 1997, the Board issued Physician's and Surgeon's Certificate No. A63365 to respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-20130-01744 and will expire on January 31, 2017, unless renewed.

JURISDICTION

4. On May 5, 2015, Accusation No. 800-2013-001744 was filed against respondent before the Board. A true and correct copy of Accusation No. 800-2013-001744, and all other statutorily required documents, were properly served on respondent on May 5, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2013-001744 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

PRIOR DISCIPLINE

6. On December 20, 2013, the Board adopted a Stipulated Settlement and Disciplinary Order as its Decision and Order in the case entitled *In the Matter of the First Amended Accusation Against Anthony S. Bianchi, M.D.*, Case No. 09-2009-200868. That Decision and Order, which became effective on January 17, 2014, revoked respondent's Physician's and Surgeon's Certificate No. A63365, but stayed the revocation, and the physician's and surgeon's certificate was placed on probation for five (5) years subject to various terms and conditions. A true and correct copy of Decision and Order No. 09-2009-200868 is attached hereto as Exhibit B and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

7 Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2013-001744. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 800-2013-001744; 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.

9. Having the benefit of counsel, respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

10. Respondent admits that, at an administrative hearing, complainant could establish a *prima facie* case with respect to each and every charge and allegation contained in Accusation No. 800-2013-001744 and agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A63365 to disciplinary action.

11. Respondent further agrees that if he ever petitions for modification or early termination of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2013-001744 shall be deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California or elsewhere.

12. Respondent agrees that his Physician's and Surgeon's Certificate No. A63365 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

13. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated

Settlement and Disciplinary Order after receiving it. By signing this stipulation, respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

14. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

15. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

16. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies and signatures shall have the same force and effect as originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A63365 issued to respondent Anthony S. Bianchi, M.D. is revoked. However, the revocation is stayed and respondent is placed on probation for five (5) years from the effective date of this Decision and Order, on the following terms and conditions:

1. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the effective date of this Decision, respondent shall enroll in a professional boundaries program equivalent to the Professional Boundaries Program offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine ("Program"). Respondent, at the Program's discretion, shall undergo and complete the Program's assessment of respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems relevant. The Program shall evaluate respondent at the end of the training and the Program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire Program not later than six (6) months after respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on respondent's performance in and evaluations from the assessment, education, and training, the Program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that respondent can practice medicine safely. Respondent shall comply with Program recommendations. At the completion of the Program, respondent shall submit to a final evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

The professional boundaries program shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The Program has the authority to determine whether or not respondent successfully completed the Program.

A professional boundaries course successfully completed as part of the Decision and Order in case No. 09-2009-200868, may be accepted towards the fulfillment of this condition.

2. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

A psychiatric evaluation successfully completed as part of the Decision and Order in case No. 09-2009-200868, may be accepted towards the fulfillment of this condition.

3. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over respondent's license and the period of probation shall be extended until the Board determines that respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

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

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

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

5. PROHIBITED PRACTICE. During probation, respondent is prohibited from seeing, consulting with, attending, practicing medicine on, or treating any and all female patients. After

the effective date of this Decision, all female patients seeking to consult with, or receive treatment from respondent shall be notified that respondent is prohibited from seeing, attending, practicing medicine on, or treating any and all female patients.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

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

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

7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, respondent is prohibited from supervising physician assistants.

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

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

Respondent shall submit quarterly declarations not later than 10 calendar days after the end

of the preceding quarter.

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

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

Place of Practice

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

License Renewal

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

Travel or Residence Outside California

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

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

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

12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

13. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

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

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

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

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

17. PRIOR DISCIPLINE. This Decision and Order shall run concurrent with respondent's probation in Case No. 09-2009-200868, and respondent's compliance with probation shall count towards both cases. However, where probation in Case No. 09-2009-200868 is otherwise set to terminate on or about January 17, 2019, probation in Case No. 800-2013-001744 is not set to terminate for five (5) years from the effective date of this Decision and Order.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Henry Lewin, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. A63365. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 2/3/16

ANTHONY S. BIANCHI, M.D.
Respondent

I have read and fully discussed with respondent Anthony S. Bianchi, 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: 02/03/16

HENRY LEWIN, 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: 2/3/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2013-001744

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 5 20 15
BY R. FIRDAYS ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2013-001744
ANTHONY S. BIANCHI, M.D. **P.O. Box 1809** **Fallbrook, CA 92088-1809** **Physician's and Surgeon's Certificate No. A63365** Respondent.	**A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about August 29, 1997, the Medical Board of California issued Physician's and Surgeon's Certificate No. A63365 to Anthony S. Bianchi, 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 January 31, 2017, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

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

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

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

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

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

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5. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3. This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship."

6. 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:

"(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 [Chapter 5, the Medical Practice Act].

"..."

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

FIRST CAUSE FOR DISCIPLINE

(Sexual Abuse or Misconduct with a Patient)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. A63365 to disciplinary action under section 726 of the Code, in that he engaged in sexual abuse or misconduct with patient K.F., as more particularly alleged hereinafter:

(a) In or around 2004, patient K.F. began treatment with respondent, a gynecologist, during her first pregnancy. This treatment continued for the next several years for a

subsequent pregnancy as well as well-woman annual exams. Throughout the years of treatment, respondent shared many personal things about his life with patient K.F., including the fact that his wife would not let him engage in certain sexual acts with her. Patient K.F. found respondent to be friendly and considered his interactions with her throughout this time as "innocent flirting."

(b) In or around January, 2009, patient K.F. had been experiencing abnormal uterine bleeding, which had caused her to become quite ill. Patient K.F. called respondent's office to make an appointment to see respondent regarding this issue. Respondent returned patient K.F.'s call and whispered into the phone that he shouldn't be calling her, that he was falling for her, and that every time he saw her, his heart beat so fast he felt like he was having a heart attack. Patient K.F. told her husband about the inappropriate phone call, but they both just thought respondent had a "little crush" on patient K.F.

(c) On or about January 27, 2009, patient K.F. saw respondent for an exam in his office. At that time, patient K.F. decided to have a laparoscopic assisted vaginal hysterectomy to help alleviate the abnormal bleeding she was experiencing. The surgery was scheduled to occur on or about February 10, 2009.

(d) On or about February 9, 2009, patient K.F. met with respondent in his office for a pre-operation visit. Patient K.F. brought her children with her to this appointment. When he saw the children, respondent asked patient K.F. if the children were her body guards. Sometime during the appointment, respondent pulled a razor out of his pocket and told patient K.F. that he wanted to shave her genital area. After the appointment, as patient K.F. was putting her children in the car, respondent called patient K.F.'s cell phone. During the call, respondent told patient K.F., "you have no idea what you do to me. I had to use a whole bottle of Vaseline." Patient K.F. had grown concerned about the inappropriate things respondent had been saying to her, but she was so ill at the time that she decided to go forward with the surgery.

(e) On or about February 10, 2009, respondent conducted the laparoscopic assisted vaginal hysterectomy on patient K.F. at the Fallbrook Hospital. Patient K.F.'s husband was present at the hospital during the surgery, which was otherwise uneventful.

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(f) On or about February 25, 2009, patient K.F. met with respondent at his office for a two week post-operation appointment. Patient K.F.'s husband was present for this appointment, which was otherwise uneventful.

(g) On or about March 25, 2009, patient K.F. met with respondent at his office for a six week post-operation appointment. During this appointment, patient K.F. was dressed in a gown, on the exam table, with her feet in the stirrups. Respondent performed a pelvic exam and looked at the surgery incision site while a nurse was present. After the nurse left the room, respondent told patient K.F. that he still had feelings for her. Respondent then placed a chair against the door and walked over to patient K.F., who was still laying on the exam table. Wearing no gloves, respondent then placed his thumb on patient K.F.'s clitoris and inserted his fingers into patient K.F.'s vagina. At the same time, respondent placed his other hand onto patient K.F.'s breast. Respondent did this for approximately 10 seconds and then pulled down his pants, exposed his erect penis, and said, "look what you do to me." Respondent then sat on a chair and asked patient K.F. to sit on top of him to have sex. Patient K.F. said, "no!" Respondent then said, "I'm inappropriate. I'm bad. If I was your husband, I would follow you around like a little puppy dog." Patient K.F. told respondent that she was leaving, got dressed, and left.

(h) Despite continued bleeding, patient K.F. never returned to respondent's office for another visit and sought additional treatment from another physician.

(i) In or around December, 2013, patient K.F. became aware that the Board had filed an Accusation against respondent for similar misconduct. On or about December 6, 2013, Patient K.F. contacted the Office of the Attorney General to report what respondent had done to her. On or about December 10, 2013, this complaint was forwarded to the Board for investigation.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

9. Respondent has further subjected his Physician's and Surgeon's Certificate No. A63365 to disciplinary action under sections 2227 and 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or

conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraph 8, above, which is hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINE CONSIDERATIONS

10. To determine the degree of penalty to be imposed in the case, if any, complainant alleges as follows: On or about December 20, 2012, the Board filed First Amended Accusation No. 09-2009-200868 charging respondent with sexual abuse or misconduct with a patient, in violation of section 726, of the Code, and general unprofessional conduct, in violation section 2234, of the Code. On or about December 20, 2013, the Board adopted a Stipulated Settlement and Disciplinary Order as its Decision and Order in Case No. 09-2009-200868. The Decision and Order, which became effective on or about January 17, 2014, revoked respondent's Physician's and Surgeon's Certificate No. A63365, but stayed the revocation, and the physician's and surgeon's certificate was placed on probation for five (5) years with terms and conditions that included the following: (1) Prohibition of practice of medicine for thirty (30) days; (2) Complete PACE Professional Boundaries Program; (3) Undergo psychiatric evaluation; (4) Undergo psychotherapy during the period of probation; (5) Prohibition of solo practice; and (6) Prohibition from seeing, consulting with, attending, practicing medicine on, or treating any and all female patients.

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. A63365, issued to respondent Anthony S. Bianchi, M.D.;

2. Revoking, suspending or denying approval of respondent Anthony S. Bianchi, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering respondent Anthony S. Bianchi, M.D. to pay the Medical Board of California the costs, if placed on probation, of probation monitoring; and

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

DATED: May 5, 2015

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

First Amended Accusation No. 09-2009-200868

Exhibit B

Decision and Order Case No. 09-2009-200868

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

In the Matter of the First Amended Accusation Against:	)	
Anthony S. Bianchi, M.D.	)	Case No. 09-2009-200868
Physician's and Surgeon's Certificate No. A 63365	)	
Respondent	)	

DECISION AND ORDER

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 January 17, 2014.

IT IS SO ORDERED: December 20, 2013.

MEDICAL BOARD OF CALIFORNIA

Barbara Yaroslavsky, Chair
Panel A

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
MICHAEL S. COCHRANE
Deputy Attorney General
State Bar No. 185730
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San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2092
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **ANTHONY S. BIANCHI, M.D.** **113 South Vine Street, Suite A** **Fallbrook, CA 92028** Physician's and Surgeon's Certificate No. A63365, Respondent.	Case No. 09-2009-200868 OAH No. 2012070965 **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. Kimberly Kirchmeyer ("Complainant") is the Interim Executive Director of the Medical Board of California ("Board") and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Michael S. Cochrane, Deputy Attorney General.

2. Respondent Anthony S. Bianchi, M.D. ("Respondent") is represented in this proceeding by attorney Joseph P. Furman, Esq., of Furman Healthcare Law, whose address is: 9701 Wilshire Blvd., 10th Floor, Beverly Hills, CA 90212.

3. On August 29, 1997, the Medical Board of California, Department of Consumer Affairs ("Board"), issued Physician and Surgeon's Certificate No. A63365 to Respondent. The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the charges and allegations in First Amended Accusation No. 09-2009-200868, and will expire on December 31, 2015, unless renewed.

JURISDICTION

4. On July 26, 2012, Accusation No. 09-2009-200868 was filed against Respondent before the Board. A true and correct copy of Accusation No. 09-2009-200868 and all other statutorily required documents were properly served on Respondent on July 26, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

5. On December 20, 2012, First Amended Accusation No. 09-2009-200868 was filed before the Board and is currently pending against Respondent. A true and correct copy of the First Amended Accusation and Supplemental Statement to Respondent were properly served on Respondent on December 20, 2012, and all of the charges and allegations contained therein were properly deemed controverted pursuant to California Government Code section 11507. A true and correct copy of First Amended Accusation No. 09-2009-200868 is attached hereto as Exhibit A and is hereby incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in First Amended Accusation No. 09-2009-200868. Respondent has also carefully read, fully discussed with counsel, and fully 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 First Amended Accusation No. 09-2009-200868; 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 benefits of counsel, Respondent hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent agrees that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 09-2009-200868, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A63365 to disciplinary action.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 09-2009-200868 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding before the Board or any other licensing proceeding involving respondent.

11. Respondent further agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and

agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A63365 issued to Respondent Anthony S. Bianchi, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years from the effective date of this Decision on the following terms and conditions:

1. ACTUAL SUSPENSION.

As part of probation, Respondent is suspended from the practice of medicine for 30 days beginning the sixteenth (16th) day after the effective date of this Decision.

2. PROFESSIONAL BOUNDARIES PROGRAM.

Within 60 calendar days from the effective date of this Decision, Respondent shall enroll in a professional boundaries program equivalent to the Professional Boundaries Program offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine ("Program"). Respondent, at the Program's discretion, shall undergo and complete the Program's assessment of Respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision, First Amended Accusation and any other information that the Board or its designee deems relevant. The Program shall evaluate Respondent at the end of the training and the Program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire Program not later than six (6) months after Respondent's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on Respondent's performance in and evaluations from the assessment, education, and training, the Program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with Program recommendations. At the completion of the Program, Respondent shall submit to a final evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

The professional boundaries program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

The Program has the authority to determine whether or not Respondent successfully completed the Program.

A professional boundaries 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.

If Respondent fails to complete the Program within the designated time period, Respondent shall cease the practice of medicine within three (3) calendar days after being notified by the Board or its designee that Respondent failed to complete the Program.

3. PSYCHIATRIC EVALUATION.

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing. Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

4. PSYCHOTHERAPY.

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and

mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

5. SOLO PRACTICE PROHIBITION.

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

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

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within 5 calendar days of the practice setting change. If

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

6. PROHIBITED PRACTICE.

During probation, Respondent is prohibited from seeing, consulting with, attending, practicing medicine on, or treating any and all female patients. After the effective date of this Decision, all female patients seeking to consult with, or receive treatment from, Respondent shall be notified that Respondent is prohibited from seeing, attending, practicing medicine on, or treating any and all female patients.

Respondent shall maintain a log of all patients to whom the required notification was made. The log shall contain the: 1) patient's name, address and phone number; patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

7. NOTIFICATION.

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

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

8. SUPERVISION OF PHYSICIAN ASSISTANTS.

During probation, Respondent is prohibited from supervising physician assistants.

9. OBEY ALL LAWS.

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

10. QUARTERLY DECLARATIONS.

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

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

11. GENERAL PROBATION REQUIREMENTS.

A. Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

B. Address Changes

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

C. Place of Practice

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

D. License Renewal

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

E. Travel or Residence Outside California

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

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

12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE.

Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

13. NON-PRACTICE WHILE ON PROBATION.

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

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In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years. Periods of non-practice will not apply to the reduction of the probationary term. Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

14. COMPLETION OF PROBATION.

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

15. VIOLATION OF PROBATION.

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

16. LICENSE SURRENDER.

Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent

shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. **PROBATION MONITORING COSTS.**

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Joseph P. Furman, Esq. I fully understand this stipulation and the effect it will have on my Physician and Surgeon's Certificate No. A63365. 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: 11/13/13

ANTHONY S. BIANCHI, M.D.
Respondent

I have read and fully discussed with Respondent Anthony S. Bianchi, 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: Nov. 14, 2013

JOSEPH P. FURMAN, ESQ.
Attorney for Respondent

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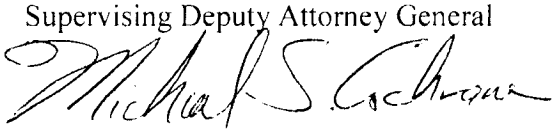
ENDORSEMENT

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

Dated: 11/15/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General



MICHAEL S. COCHRANE
Deputy Attorney General
Attorneys for Complainant

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 20 20 12
BY H. Park ANALYST

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

In the Matter of the First Amended Accusation Against: ANTHONY STEVEN BIANCHI, M.D. 113 South Vine Street, Suite A Fallbrook, CA 92028 Physician's and Surgeon's Certificate No. A63365, Respondent.	Case No. 09-2009-200868 OAH No. 2012070965 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Linda K. Whitney (complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about August 29, 1997, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number A63365 to Anthony Steven Bianchi, M.D. (respondent). The Physician's and Surgeon's Certificate No A63365 was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

JURISDICTION

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

4. Section 2227 of the Code states:

"a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

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

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

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

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

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

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5. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3. This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship."

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

"The board shall take action against any licensee who is charged with unprofessional conduct. . ."

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

FIRST CAUSE FOR DISCIPLINE

(Sexual Abuse or Misconduct with a Patient)

8. Respondent is subject to disciplinary action under section 726 of the Code in that he engaged in sexual abuse or misconduct with patients T.C. and A.M., as more particularly alleged hereinafter:

Patient T.C.

(a) On or about September 11, 2008, respondent, a gynecologist, began treating patient T.C. Patient T.C.'s first appointment with respondent was a well-woman examination. Due to an abnormal pap smear, patient T.C. needed a couple of follow-up appointments to conclude that everything was normal. Patient T.C. first several appointments with respondent were uneventful.

(b) On or about July 9, 2009, patient T.C. presented by appointment to discuss tubal-ligation surgery with respondent. The consultation took place in respondent's office, and patient T.C. was fully clothed. Surgery was scheduled for on or about August 4, 2009, but more information was needed to clarify if the surgery would be performed at Fallbrook Surgical Center or Golden Triangle Surgical Center in Temecula. Respondent gave patient T.C. his pager number and told her to call him anytime day or night. Respondent asked patient T.C. if she wanted to go to lunch with him, and patient T.C. declined.

(c) On or about July 10, 2009, patient T.C. received a telephone call from respondent to further discuss the location for her surgery. After a brief discussion about the surgery, respondent apologized for staring at her breasts during the medical consultation the previous day. Respondent told patient T.C. she was a beautiful woman and did not want to offend her, but stated he could not stop thinking about her, especially since he knew what she looked like unclothed.

(d) On or about July 20, 2009, patient T.C. received a phone call from respondent, who verified that her surgery could be performed at patient T.C.'s preferred surgical center in Temecula. After some small talk, respondent told patient T.C. that he had a dream in which she came to his office wearing a short miniskirt without any undergarments. Respondent continued to describe that he performed oral sex on patient T.C. in his dream. Respondent acknowledged that he did not know if patient T.C. liked oral sex, but stated that she was gratified in his dream. Patient T.C. asked what respondent was doing by talking like that, and respondent explained that they were talking as friends and complained about having an unsatisfying sex life in his marriage. Patient T.C. expressed her discomfort with the conversation, stated she was concerned about what respondent might do to her during the surgery, and asked who else would be present in the room during the surgery. Respondent agreed to refer her to another doctor for the surgery, and promised not to "stalk" patient T.C.

(e) Patient T.C. called respondent back at the phone number from which respondent had called her, which was respondent's cell phone number. Respondent stated

that she should not call him at that number, but rather should call his pager, which would forward the call to his cell phone. Patient T.C. told respondent the name of another doctor who she wanted to perform her surgery, and asked that he make a referral to that doctor, and respondent agreed.

Patient A.M.

(f) On or about May 14, 2012, patient A.M. was seen by respondent for her eighth week pregnancy intravaginal ultrasound after she had experienced some vaginal bleeding. During this visit, respondent complemented patient A.M. on her clothes and told her that she was beautiful.

(g) The next day, on or about May 15, 2012, respondent called patient A.M. Respondent stated that he had something to say, did not know if he should say it, but that he was going to say it anyway. Respondent told patient A.M. that he knew he was "an old man," but expressed that he was sexually attracted to patient A.M. Respondent requested the next time patient A.M. comes to his office, that she not shave the hair around her genitalia and that she come disheveled and untidy "because yesterday I nearly had a heart attack seeing you."

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

9. Respondent is further subject to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breached the rules or ethical code of the medical profession, or conduct which was unbecoming to a member in good standing of the medical profession, and which demonstrated an unfitness to practice medicine, as more particularly alleged in Paragraph 8, above, is 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 Number A63365, issued to respondent Anthony Steven Bianchi, M.D.;

2. Revoking, suspending or denying approval of respondent Anthony Steven Bianchi, M.D's authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. Ordering respondent Anthony Steven Bianchi, M.D., to pay the Medical Board of California, if placed on probation, the costs of probation monitoring; and

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

DATED: 12/20/12

Michael J. Cochrane for

LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant