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

In the Matter of the Second Amended Accusation Against:	)	
Michael Omidi, M.D.	)	**Case No. 05-2012-223866**
Physician's and Surgeon's Certificate No. A 84519	)	
Respondent	)	

DECISION AND ORDER

On November 13, 2015, a Decision became effective wherein Respondent, Michael Omidi, M.D., was ordered to complete an ethics course and a medical record keeping course, prior to being publicly reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4). On August 22, 2016, the Medical Board of California notified the Respondent that he fully complied with the terms and conditions of the Decision. In accordance with the Decision, Respondent's Physician and Surgeon's Certificate No. A 84519 was publicly reprimanded on August 22, 2016.

MEDICAL BOARD OF CALIFORNIA

By: Dev Gnanadev MD
Dev Gnanadev, M.D.
President

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the Second Amended Accusation Against:	)	
MICHAEL OMIDI, M.D.	)	**Case No. 05-2012-223866**
Physician's and Surgeon's Certificate No. A 84519	)	
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 November 13, 2015.

IT IS SO ORDERED: October 16, 2015.

MEDICAL BOARD OF CALIFORNIA

By: Dev Gnanadev MD
Dev Gnanadev, M.D., Chair
Panel B

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
CLAUDIA RAMIREZ
Deputy Attorney General
State Bar No. 205340
California Department of Justice
300 South Spring Street, Suite 1702
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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 Second Amended Accusation Against: MICHAEL OMIDI, M.D. 9001 Wilshire Blvd. Beverly Hills, CA 90211 Physician's and Surgeon's Certificate No. A 84519, Respondent.	Case No. 05-2012-223866 OAH No. 2013060809 **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 and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Claudia Ramirez, Deputy Attorney General.

2. Respondent Michael Omidi, M.D. ("Respondent") is represented in this proceeding by attorney Albert J. Garcia, whose address is: 2000 Powell Street, Suite 1290, Emeryville, California, 94608.

3. On or about September 5, 2003, the Board issued Physician's and Surgeon's

Certificate No. A 84519 to Respondent. That Certificate was in full force and effect at all times relevant to the charges brought in the Second Amended Accusation No. 05-2012-223866, and will expire on September 30, 2015, unless renewed.

JURISDICTION

4. The Second Amended Accusation No. 05-2012-223866 was filed before the Board and the Second Amended Accusation is currently pending against Respondent. The Second Amended Accusation and all other statutorily required documents were properly served on Respondent on July 8, 2015. Respondent timely filed his Notice of Defense contesting the Second Amended Accusation.

5. A copy of the Second Amended Accusation No. 05-2012-223866 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the Second Amended Accusation No. 05-2012-223866. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Second Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in the Second

(which pertains only to record-keeping)

Cause for Discipline of the Second Amended Accusation No. 05-2012-223866, and that he has thereby subjected his license to disciplinary action.

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

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal, civil or other proceeding.

CONTINGENCY

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

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

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

15. IT IS HEREBY ORDERED that upon completion of the following course work, Physician's and Surgeon's Certificate No. A 84519 issued to Respondent Michael Omidi, M.D. will be publicly reprimanded pursuant to California Business and Professions Code section 2227,

subdivision (a)(4). This public reprimand, ~~which is issued in connection with Respondent's care and treatment of Patients G.B. and R.D. as set forth in the Second Amended Accusation No. 05-2012-223866~~ is as follows:

You failed to maintain adequate and accurate medical records in violation of Business and Professions Code section 2266, as more fully described in the Second Amended Accusation No. 05-2012-223866.

A. ETHICS COURSE

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll, at his own expense, in a course in ethics, approved in advance by the Board or its designee. Respondent shall successfully complete said course no later than six months after his initial enrollment unless the Board or its designee agrees in writing to a later time for completion. Respondent may satisfy this term by successfully completing said course prior to the effective date of the Decision adopting this Stipulated Settlement. Upon successfully completing said course, Respondent agrees to forward, no later than 15 days after successfully completing the course, a copy of the Certificate of Successful Completion of the course to the Board or its designee.

Failure to participate in and successfully complete the medical record-keeping course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

B. MEDICAL RECORD-KEEPING COURSE

Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll, at his own expense, in a course in medical record keeping, approved in advance by the Board or its designee. The PACE medical record keeping course offered at the University of California - San Diego School of Medicine is an approved course. Respondent shall successfully complete said course no later than six months after his initial enrollment unless the Board or its designee agrees in writing to a later time for completion. Respondent may satisfy this term by successfully completing said course prior to the effective date of the Decision adopting this Stipulated Settlement. Upon successfully completing said course, Respondent agrees to forward,

no later than 15 days after successfully completing the course, a copy of the Certificate of Successful Completion of the course to the Board or its designee.

Failure to participate in and successfully complete the medical record-keeping course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

ACCEPTANCE

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

DATED: 8/26/15

MICHAEL OMIDI, M.D.
Respondent

I have read and fully discussed with Respondent Michael Omidi, 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: 8/26/15

Albert J. Garcia
Attorney for Respondent

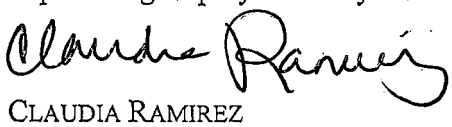
ENDORSEMENT

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

Dated: 8-26-15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



CLAUDIA RAMIREZ
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Second Amended Accusation No. 05-2012-223866

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 8 2015
BY R. Voong ANALYST

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

In the Matter of the Second Amended Accusation Against: MICHAEL OMIDI, M.D. P.O. Box 24366 Los Angeles, California 90024 Physician's and Surgeon's Certificate Number A 84519, Respondent.	Case No. 05-2012-223866 OAH No. 2013060809 **SECOND AMENDED** **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") brings this Second Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California ("Board").

2. On or about September 5, 2003, the Board issued Physician's and Surgeon's Certificate number A 84519 to Michael Omidi, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.

///

JURISDICTION

3. This Second Amended Accusation is brought before the Board under the authority of the following provisions of the California Business and Professions Code ("Code").

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

5. Section 2234 of the Code states:

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

"..."

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts."

"..."

6. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts - Patient G.B. and Patient R.D.)

7. Respondent is subject to disciplinary action under section 2234 subdivision (c) of the Code, in that he was negligent in the care and treatment of patients G.B. and R.D. The circumstances are as follows:

Patient G.B.

8. G.B., an adult female patient, was attracted to the plastic surgery practice of Respondent as a result of paid advertising. She met with Respondent on February 20, 2007. He

diagnosed her with capsular contracture of both breasts.[1]

9. They decided to proceed with surgery consisting of removal of the ruptured silicone gel implants that G.B. had from prior surgery and the capsule around the old breast implants that was responsible for G.B.'s discomfort would be removed. New breast implants would also be placed.

10. Surgery was performed on February 28, 2008. To G.B.'s distress, she suffered a recurrence of capsular contracture shortly after her operation. Following her surgery, she was seen for a follow-up visit the next day, February 29, 2008, and approximately two weeks later on March 4, 2008, when she had the surgical drains removed. However, her medical chart contains no reference to any additional follow-up visits for two years, until March 10, 2010. Neither is there any record of Respondent's office attempting to contact G.B. for follow-up or missed follow-up appointments.

11. On April 3, 2010, Respondent diagnosed G.B. with a recurrence of capsular contracture for which revision surgery was proposed.

12. It is the standard of care to be available to meet and re-examine the postoperative patient as frequently as needed or to provide alternative medical coverage. The care of the patient with capsular contracture continues beyond the operative room, and especially for one who has had a recurrence. Respondent was unavailable for the postoperative care of G.B. from a week after the February 28, 2008 surgery until March 2010, two years later. Respondent's failure to properly follow up with G.B., or to make arrangements for another physician to do so, is a departure from the standard of care.

13. It is the standard of care to keep and maintain complete medical records on all patients who have received medical services. Preoperative records should include proof of

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[1] Capsular contracture is a medical complication that refers to the formation of capsules of tightly-woven collagen fibers, created by the body's response to the presence of foreign objects surgically implanted, such as breast implants. Capsular contracture occurs when the collagen-fiber capsule tightens and squeezes the breast implant. It can be painful to the patient and may distort the aesthetics of the breast. The cause of capsular contracture is unknown, but factors common to its incidence include, bacterial contamination, rupture of the breast-implant shell, leakage of the silicone-gel filling, and hematoma. Because capsular contracture is a consequence of the immune system defending the patient's bodily integrity and health, it might reoccur, even after corrective surgery for the initial incidence.

informed consent and an explanation of a patient's choices. G.B.'s preoperative records do not show that Respondent informed her about the high probability of a postoperative recurrence of capsular contracture. G.B.'s preoperative records also do not show that she gave informed consent about the high probability of a postoperative recurrence of capsular contracture.

Patient R.D.

14. On or about January 28, 2010, R.D., an adult female patient, visited the practice of Respondent to inquire about the lap band procedure in order to reduce her weight. Patient R.D. was encouraged to have breast reduction surgery instead of bariatric surgery.

15. On April 22, 2010, R.D. underwent a reduction mammaplasty[2] and suction assisted lipectomy[3] of her breasts bilaterally, performed by Respondent. She had a large volume of material removed and suffered a right nipple-areolar loss with loss of sensation and asymmetry requiring re-operation.

16. R.D. remained a patient of the practice of Respondent and participated in preparations to undergo bariatric surgery. As part of those preparations, she was instructed to undergo a sleep apnea study, endoscopy, and ultrasound. On or about February 2011, she was told by Respondent's staff that she "qualified for a C-PAP (continuous positive airway pressure) machine." The C-PAP machine is designed to help patients with documented obstructive sleep apnea to increase inflow of air while they sleep. It is designed specifically for patients with a documented diagnosis of obstructive sleep apnea. R.D. never had any complaints or diagnoses of obstructive sleep apnea.

17. The standard of care is to do all those medical actions that are medically necessary to ensure the successful and safe outcome of the procedure in a humane and ethical manner. Accordingly, any preoperative testing that may contribute to improved patient safety during the operative procedure is certainly within the standard of care. However, offering the patient inaccurate or misleading information about their health status – in this case, that she had the

[2] Reduction mammaplasty is an operation to remove excess breast fat, glandular tissue and skin to achieve a breast size in proportion with the patient's body and to alleviate the discomfort associated with overly large breasts.

[3] A lipectomy is the surgical removal of fatty tissue.

condition of obstructive sleep apnea – is a departure from the standard of care.

18. R.D.'s medical chart is devoid of the sleep apnea test results for which Respondent referred her.

19. Respondent's acts and/or omissions as set forth in paragraphs 8 through 19, inclusive above, whether proven individually, jointly, or in any combination therefore, constitute repeated negligent acts pursuant to section 2234, subdivision (c) of the Code. Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records – Patients G.B. and R.D.)

20. By reason of the facts set forth above in the First Cause for Discipline, Respondent is subject to disciplinary action under Business and Professions Code section 2266 for failure to maintain adequate and accurate medical records.

DISCIPLINE CONSIDERATIONS

21. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on October 3, 2008, in a prior disciplinary action entitled, *In the Matter of the Accusation Against Michael Omidi, M.D.,* Medical Board of California Case No. 05-2005-170875, Respondent's license was revoked, with the revocation stayed and three (3) years of probation imposed together with other requirements, including completing an ethics course, for violating Business and Professions Code section 2216 (restrictions on use of anesthesia) and Health and Safety Code section 1248.1, subdivision (g) (operation and maintenance of outpatient setting; restrictions) with respect to the surgeries that he performed on three patients. That decision is now final and is incorporated by reference as if fully set forth.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 84519, issued to Respondent;

2. Revoking, suspending or denying approval of Respondent's authority to supervise

physician assistants, pursuant to section 3527 of the Code;

3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as the Board deems necessary and proper.

DATED: July 8, 2015

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

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