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

In the Matter of the Accusation Against: **Dennis Salcido, M.D.** **Physician's and Surgeon's Certificate No. A 33066** **Respondent.**	**Case No. 800-2017-032575**

DECISION

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

This Decision shall become effective at 5:00 p.m. on June 12, 2020.

IT IS SO ORDERED: May 14, 2020.

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
DAVID CARR
Deputy Attorney General
State Bar No. 131672
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3380
Facsimile: (415) 703-5480
Attorneys for Complainant

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

In the Matter of the Accusation Against: **DENNIS SALCIDO, M.D.** 155 N. Jackson Ave., #201 Santa Clara, CA 95116 Physician's and Surgeon's Certificate No. A 33066 Respondent.	Case No. 800-2017-032575 OAH No. 2019090622 **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. Christine Lally (Complainant) is the Interim 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 Xavier Becerra, Attorney General of the State of California, by David Carr, Deputy Attorney General.

2. Respondent Dennis Salcido, M.D. is represented in this proceeding by attorney Cyrus A. Tabari, of Sheurman, Martini, Tabari, Zenere & Garvin, 1033 Willow St. San Jose, CA 95125.

3. On October 17, 1978, the Board issued Physician's and Surgeon's Certificate No. A 33066 to Dennis Salcido, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-032575, and will expire on January 31, 2020, unless renewed.

JURISDICTION

Accusation No. 800-2017-032575 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 12, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

4. A copy of Accusation No. 800-2017-032575 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-032575. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2017-032575, if proven at a hearing, constitute cause for imposing discipline upon his Physican's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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 probationary terms as set forth in the Disciplinary Order below.

RESERVATION

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

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 33066 issued to Respondent Dennis Salcido, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational programs or courses which shall not be less than 25 hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion the course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 50 hours of CME of which 25 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record-keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

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

3. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the 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.

4. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

5. 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.

6. 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.

7. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

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.

8. 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.

9. 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 as defined in Business and Professions Code sections 2051 and 2052 for at least 15 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. 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 the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment 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 for a Respondent residing outside of California 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; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

10. 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.

11. 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, 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.

12. 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 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.

13. 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, Cyrus Tabari. 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: 12/09/19

DENNIS SALCIDO, M.D.
Respondent

I have read and fully discussed with Respondent Dennis Salcido, 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: 12-9-19

CYRUS A. TABARI
Attorney for Respondent

ENDORSEMENT

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

DATED: December 9, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General

DAVID CARR
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-032575

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
DAVID CARR
Deputy Attorney General
State Bar No. 131672
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3380
Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 12, 2018
BY Sara Pasion ANALYST

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

In the Matter of the Accusation Against: **DENNIS SALCIDO, M.D.** 155 N. Jackson Ave., #201 San Jose CA 95116 Physician's and Surgeon's Certificate No. A 33066, Respondent.	Case No. 800-2017-032575 **ACCUSATION**

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 October 17, 1978, the Medical Board (Board) issued Physician's and Surgeon's Certificate Number A 33066 to Dennis Salcido, 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, 2020, unless renewed.

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JURISDICTION

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

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, 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.

"(b) Gross negligence.

"(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 makes it unprofessional conduct for a physician to fail to maintain adequate and accurate records relating to the provision of professional services unprofessional conduct.

7. At all times relevant to this matter, Respondent was licensed and practicing medicine in California. All of the incidents described herein occurred in California.

FACTS

8. On March 18, 2017, Patient P-1[1], a sixteen-year old girl, presented to the Saint Louise Hospital emergency room (ER) with a twenty-four hour history of abdominal pain, with nausea

[1] The patient is designated in this document as Patient P-1 to protect her privacy. Respondent knows the name of the patient and can confirm her identity through discovery.

and anorexia, that had started in the epigastrium but thereafter localized in the right lower quadrant of the abdomen. A CT scan revealed findings consistent with an uncomplicated acute appendicitis.

9. Respondent examined P-1 in the ER at approximately 10:00 p.m. that evening and agreed with the diagnosis of acute appendicitis. Respondent scheduled her for an open appendectomy that same evening.

10. In that surgery, Respondent made a small right lower quadrant abdominal incision to enter the peritoneal cavity. The incision was much more medial than the standard variations of the McBurney's point incision.[2] Respondent had difficulty finding the appendix so he mobilized the cecum medially. He reported seeing an inflamed tubular structure that he believed came from the tip of the cecum and proceeded to dissect it down into the pelvis. He reported that he could not find the end of it but reassured himself that it was coming from the cecum and transected it distally.

11. He rotated the cecum more medially for better viewing and saw another structure which he recognized as the appendix and its mesoappendix. He dissected this structure completely but did not describe the transection of the distal end in his operative report. Not knowing what the first structure he had transected was, he was concerned about a possible transection injury to the right ureter, especially after a Foley catheter he had placed in the patient's bladder showed bloody urine. He closed the incision without consulting with another surgeon or a urologist and arranged for a CT scan of the abdomen and pelvis. The CT scan confirmed his suspicion that the right ureter flow was disrupted at the level of the surgical field.

12. Respondent prepared operative reports that present different, evolving versions of the surgery. The first was his operative report which was dictated right after the surgery was completed, at around 1:09 a.m. on March 19, 2017. Following that, he prepared two different and more detailed descriptions of the surgery in discharge summaries he dictated on March 19, 2017,

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[2] McBurney's point is the name given to the point over the right side of the abdomen that is one-third the distance from the anterior superior iliac spine to the umbilicus which roughly corresponds to the most common location of the base of the appendix where it is attached to the cecum. It also allows for easy extension along fascial plains if needed for better visualization.

at 10:46 a.m. and 6:51 p.m., respectively. The discharge summaries included a fair amount of detail about the operation, emphasizing previously unmentioned aspects of his operative techniques and findings.

13. In the initial operative report, Respondent described following and dissecting what he had assumed was the appendix into the pelvis and not being able to find the end of it yet transecting it distally anyway. In his second discharge summary, prepared approximately 19 hours after the surgery, he stated that he had found the appendiceal tip on the first structure, dissected it free, and followed it back to the cecum before transecting it.

14. None of Respondent's accounts mention the taeniae coli, a consistent landmark at the posterior tip of the cecum where the base of the appendix starts. If the cecum had been sufficiently mobilized medially to clearly see the convergence of the taeniae coli, it would have been apparent that the initial structure was the ureter and not the appendix.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Negligence)

15. The allegations of paragraphs 8 through 14 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct under section 2234, subdivisions (a) (violating the Medical Practice Act), (b) (gross negligence), and/or (c) (repeated negligent acts), of the Code, in that Respondent's use of a non-standard medial abdominal surgical incision on P-1 giving a suboptimal visualization of the surgical field and failure to extend the incision to correct the shortcoming was a departure from the standard of care constituting gross negligence or, in combination with the other departures alleged herein, repeated negligent acts.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence/Negligence)

16. The allegations of paragraphs 8 through 14 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct under section 2234, subdivisions (a) (violating the Medical Practice Act), (b) (gross negligence), and/or (c) (repeated negligent acts), of the Code, in that Respondent failed to

adequately mobilize P-1's cecum in order to identify the area of the cecum where the taeniae coli and the cecum converge, a departure from the standard of care constituting gross negligence or, in combination with the other departures alleged herein, repeated negligent acts.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence/Negligence)

17. The allegations of paragraphs 8 through 14 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct under section 2234, subdivisions (a) (violating the Medical Practice Act), (b) (gross negligence), and/or (c) (repeated negligent acts), of the Code, in that Respondent failed to identify the area on P-1's cecum where the taeniae coli and the cecum converge, a separate departure from the standard of care constituting gross negligence or, in combination with the other departures alleged herein, repeated negligent acts.

FOURTH CAUSE FOR DISCIPLINE

(Gross Negligence/Negligence)

18. The allegations of paragraphs 8 through 14 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct under section 2234, subdivisions (a) (violating the Medical Practice Act), (b) (gross negligence), and/or (c) (repeated negligent acts), of the Code, in that Respondent transected the distal aspect of the structure he assumed was P-1's appendix without adequate mobilization and visualization of the tip of the "appendix," which resulted in his distally transecting P-1's right ureter instead of her appendix, a departure from the standard of care constituting gross negligence or, in combination with the other departures alleged herein, repeated negligent acts.

FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence/Negligence)

19. The allegations of paragraphs 8 through 14 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct under section 2234, subdivisions (a) (violating the Medical Practice Act), (b) (gross negligence), and/or (c) (repeated negligent acts), of the Code, in that Respondent failed to call for

an intraoperative second opinion of another surgeon or a urologist prior to closing P-1's incision, a departure from the standard of care constituting gross negligence or, in combination with the other departures alleged herein, repeated negligent acts.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Keep Accurate Records)

20. The allegations of paragraphs 8 through 14 above are incorporated by reference as if set out in full. Respondent has subjected his license to disciplinary action for unprofessional conduct under section 2266, in that Respondent's entry into the medical records of multiple versions of his report of Patient P-1's surgery—in which the later versions contain detailed information not mentioned in the original operative summary—constitutes a failure to maintain adequate and accurate medical records.

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 A 33066, issued to Dennis Salcido, M.D.;

2. Revoking, suspending or denying approval of Dennis Salcido, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Dennis Salcido, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: June 12, 2018

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

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