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

In the Matter of the Accusation Against: Nadine Evadne Graven, M.D. Physician's & Surgeon's Certificate No G79068 Respondent	Case No. 800-2017-032287

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 September 16, 2020.

IT IS SO ORDERED August 17, 2020.

MEDICAL BOARD OF CALIFORNIA

By: Ronald H. Lewis, MD

Ronald H. Lewis, M.D., Chair
Panel A

XAVIER BECERRA
Attorney General of California
MARY CAIN-SIMON
Supervising Deputy Attorney General
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Deputy Attorney General
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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: **NADINE EVADNE GRAVEN, M.D.** **603 Seagaze Dr., #520** **Oceanside, CA 92054-3005** **Physician's and Surgeon's Certificate No. G 79068** Respondent.	Case No. 800-2017-032287 **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 J. 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 Alice W. Wong, Deputy Attorney General.

2. Respondent Nadine Evadne Graven, M.D. (Respondent) is represented in this proceeding by attorney Barry C. Marsh, whose address is: 12901 Saratoga Avenue Saratoga, CA 95070-9988.

3. On or about June 8, 1994, the Board issued Physician's and Surgeon's Certificate No. G 79068 to Nadine Evadne Graven, 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. 800-2017-032287, and will expire on December 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-032287 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 December 11, 2018. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-032287 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 Accusation No. 800-2017-032287. 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 her 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 her; the right to present evidence and to testify on her 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 understands and agrees that the charges and allegations in Accusation No. 800-2017-032287, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. 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 her right to contest those charges.

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

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 Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 79068 issued to Respondent Nadine Evadne Graven, M.D. is hereby publicly reprimanded pursuant to California Business and Professions Code § 2227(a)(4). This Public Reprimand is issued in

connection with the allegations relating to Respondent's care and treatment of Patient A, as set forth in Accusation No. 800-2017-032287.

B. EDUCATION COURSE

Within 120 calendar days of the effective date of this Decision, Respondent shall enroll in 18 hours of education course(s) in fetal heart tracing, 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 nine (9) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The fetal heart tracing course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A fetal heart tracing 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 18 hours of fetal heart tracing course(s), or not later than 15 calendar days after the effective date of the Decision, whichever is later.

Respondent understands that failure to submit and/or complete the 18 hours of fetal heart tracing course(s), as set forth above, would constitute unprofessional conduct and grounds for further disciplinary action. If Respondent fails to enroll, participate in, or successfully complete the fetal heart tracing course(s) within the designated time period, 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.

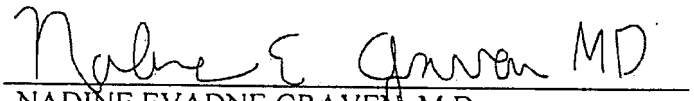
In consideration for her agreement to complete the fetal heart tracing course(s), as set forth

above, Respondent shall be publicly reprimanded as set forth in the public letter of reprimand, as set forth above in Paragraph 14(A).

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Barry C. Marsh. 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: 05/14/2020



NADINE EVADNE GRAVEN, M.D.
Respondent

I have read and fully discussed with Respondent Nadine Evadne Graven, 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: 5/15/2020

BARRY C. MARSH
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: 6/1/2020

Respectfully submitted,

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

ALICE W. WONG
Deputy Attorney General
Attorneys for Complainant

SF2018201614

Exhibit A

Accusation No. 800-2017-032287

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO DEC. 11 2018
BY [illegible] ANALYST

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

In the Matter of the Accusation Against: **Nadine Evadne Graven, M.D.** **476 E Campbell Avenue** **Campbell, CA 95008** **Physician's and Surgeon's Certificate No. G 79068,** Respondent.	Case No. 800-2017-032287 **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 (Board).

2. On or about June 8, 1994, the Medical Board issued Physician's and Surgeon's Certificate Number G 79068 to Nadine Evadne Graven, 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 December 31, 2019, unless renewed.

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 2004 of the Code states:

"The board shall have the responsibility for the following:

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

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

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

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

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

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. 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.

6. 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:

"(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.

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

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

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FACTS

7. At all times relevant to this matter, Respondent was a licensed physician practicing in Campbell, California.

8. Patient A,[1] a 29-year old female, with an expected due date of February 10, 2015, was under the prenatal care of Respondent, an obstetrician/gynecologist. On February 11, 2015, at approximately 9:00 a.m., Patient A presented to Labor & Delivery at El Camino Hospital, with complaints of frequent contractions and possible spontaneous rupture of membranes earlier in the morning.

9. Fetal heart rate monitoring was initiated. Between 9:15 a.m. and 10:15 a.m., there were various decelerations[2] noted and decelerations with bradycardia.[3] Patient A received an epidural[4] at approximately 11:00 a.m. Between 11:00 a.m. and 12:30 p.m., late decelerations and bradycardias continued intermittently. The fetal heart tracing during this time period included Category III[5] on the fetal monitor strip.[6]

10. Respondent arrived at the hospital shortly after 12:30 p.m. to undertake the care of Patient A. Respondent ordered amnioinfusion[7] in an effort to improve the fetal heart rate. Between 1:00 p.m. and 1:30 p.m., there were more bradycardias with late decelerations,

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

[2] Decelerations are temporary drops in the fetal heart rate.

[3] Fetal bradycardia refers to an abnormally low fetal heart rate.

[4] Epidural is a type of anesthetic injected in the lower back region to produce loss of sensation given to women during labor for pain relief.

[5] Three-tier fetal heart rate interpretation system: Category I (normal), Category II (indeterminate), and Category III (abnormal).

[6] Electronic fetal monitoring continuously record the unborn baby's heart rate and graphs it on a piece of paper (fetal monitor strip).

[7] Amnioinfusion is a method in which isotonic fluid is instilled into the amniotic cavity in order to correct fetal heart rate changes thought to be caused by compression of the umbilical cord (variable decelerations).

indicative of Category III. Respondent ordered Nitroglycerin[8] to help improve the fetal heart rate. Between 2:10 p.m. and 2:20 p.m., there were late decelerations with more bradycardias, indicative of Category III strips. A fetal scalp electrode[9] was placed at this time. More decelerations and long bradycardias continued between 2:30 p.m. and 3:00 p.m.

11. There was a large terminal bradycardia recorded on the fetal monitoring strip at 3:00 p.m. Respondent made the decision to transfer Patient A to the operating room for emergency cesarean section at 3:10 p.m. In the operating room, the fetal heart rate monitor showed a terminal bradycardia at 3:14 p.m. Respondent delivered a 9 lb. 7 oz. baby[10] at 3:21 p.m. The baby was very depressed with low Apgar scores[11] of 1, 0, 2 and 3.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence and/or Repeated Negligent Acts)

12. Respondent is subject to disciplinary action under section 2234(b) and/or 2234(c) of the Code in that Respondent's overall conduct, acts, and omissions, with regard to Patient A constitute gross negligence and/or repeated negligent acts, as described above including, but not limited to, the following:

A. Respondent failed to recognize the fetus was in severe distress requiring emergency intervention shortly after Respondent's arrival at the hospital.

B. Respondent failed to deliver the baby in a timely fashion after she arrived at the hospital to undertake the care of Patient A.

C. Respondent failed to identify the fetus as large for gestational age.

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[8] Nitroglycerin is administered intravenously to relax the uterus.

[9] Fetal scalp electrode is a spiral wire placed directly on the fetal scalp to check the fetal heart rate.

[10] The term "fetal macrosomia" is used to describe a newborn with a birth weight of more than 8 lbs, 13 ounces (4,000 grams). Fetal macrosomia may complicate vaginal delivery.

[11] Apgar score is a measure of the physical condition of a newborn infant obtained by adding points (2, 1, or 0) for heart rate, respiratory effort, muscle tone, response to stimulation, and skin coloration. A score of ten represents the best possible condition.

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 G 79068, issued to Respondent;

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

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 deemed necessary and proper.

DATED:
December 11, 2018

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

SF2018201614