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

In the Matter of the Accusation Against: Hampton T. Gaskins, M.D. Physician's and Surgeon's Certificate No. G 36905 Respondent.	Case No. 800-2016-028251

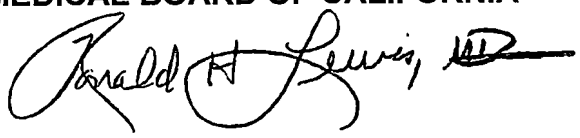
DECISION

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 November 13, 2020.

IT IS SO ORDERED: October 14, 2020.

MEDICAL BOARD OF CALIFORNIA



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

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

In the Matter of the Accusation Against: HAMPTON T. GASKINS, M.D. 7777 Milliken Avenue, Suite 120 Rancho Cucamonga, California 91730-6781 Physician's and Surgeon's Certificate G 36905, Respondent.	Case No. 800-2016-028251 OAH No. 2020020356 **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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). His predecessor as Executive Director brought this action solely in her official capacity. The Complainant is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Robert McKim Bell, Supervising Deputy Attorney General.

2. Respondent Hampton T. Gaskins, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, whose address is 5440 Trabuco Road Irvine, California 92620.

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3. On June 30, 1978, the Board issued Physician's and Surgeon's Certificate G 36905 to Hampton T. Gaskins, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-028251, and will expire on December 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2016-028251 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 November 26, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-028251 is attached as exhibit A and is 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. 800-2016-028251. Respondent has also carefully read, fully discussed with his 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 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.

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, the Complainant could establish a *prima facie* case with respect to the charges and allegations in Accusation No. 800-2016-028251 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 probationary terms as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent Hampton T. Gaskins, M.D. has not been the subject of prior disciplinary action and is admitting responsibility at an early stage in the proceedings.

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. 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 Accusation No. 800-2016-028251 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.

14. 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. G 36905 issued to Respondent Hampton T. Gaskins, 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. PRACTICE LIMITATION. As part of probation, Respondent shall abstain from further cervical neck epidural injections without fluoroscopy or other remote guidance.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. 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 of each 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 65 hours of CME of which 40 hours were in satisfaction of this condition.

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, subdivision (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 40 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' 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, 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.

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 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.

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.

14. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2016-028251 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. 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: 8-21-20 Hampton T Gaskins

HAMPTON T. GASKINS, M.D.
Respondent

I have read and fully discussed with Respondent Hampton T. Gaskins, 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: August 21, 2020

RAYMOND J. McMAHON
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: August 21, 2020.

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

ROBERT MCKIM BELL
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-028251

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO NOV. 26 2019
BY D. GARCIA ANALYST

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

In the Matter of the Accusation Against: HAMPTON T. GASKINS, M.D. 7777 Milliken Avenue, Suite 120 Rancho Cucamonga, California 91730-6781 Physician's and Surgeon's Certificate G 36905, Respondent.	Case No. 800-2016-028251 **ACCUSATION**

PARTIES

1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Director of the Medical Board of California (Board).

2. On June 30, 1978, the Board issued Physician's and Surgeon's Certificate Number G 36905 to Hampton T. Gaskins, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2021, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following provisions of the California Business and Professions Code (Code) unless otherwise indicated.

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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:
>
> (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.
>
> [¶] . . . [¶]
>
> (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.
>
> [¶] . . . [¶]

FACTUAL ALLEGATIONS

6. Respondent is an orthopedist at Hampton Medical Clinic, a practice he owns with his brother, who is also a physician. Respondent's brother is a general practitioner. Respondent's orthopedic medicine practice includes performance of injections, including trigger point injections and epidural injections. He performs the injections in the clinic.

7. Respondent does not perform injections with the use of fluoroscopy. It is his opinion that it is unnecessary. He does not have any equipment for ultrasound or fluoroscopic guidance.

8. On or about September 5, 2013, Patient 1, who was at that time a 59-year-old female, began treating with Respondent. Patient 1 was referred by Respondent's brother to Respondent

due to her complaints of neck pain. Patient 1 also experienced lower back pain, bilateral shoulder pain, and left foot pain.

9. Respondent treated Patient 1 with multiple trigger point injections between September 2013 and August 2014.

10. In a progress note, dated October 27, 2016, Respondent noted that Patient 1 had complaints of neck pain that had not been relieved by multiple trigger point injections and non-steroidal anti-inflammatory drugs. Respondent recommended a cervical epidural injection.

11. Cervical spine x-rays were taken, but no MRI study was obtained.

12. On November 10, 2016, Patient 1 presented to Respondent's practice for the purpose of receiving a cervical epidural steroid injection.

13. According to Respondent, Patient 1 was seated in a chair with arms. Respondent alleged he counted the spinous process from C1 down to C5-C6 and inserted the needle at that level. Respondent alleged that Patient 1 was injected in the C5-C6 epidural space "uneventfully." Thereafter, she complained of right arm numbness, she kicked a footstool, and she asked to be taken to the hospital. She slumped back in her chair. Alcohol and smelling salts were placed under her nose, and an ice pack was placed on her face because she appeared to have fainted. When a check of her heart revealed no heart sounds, she was placed on the floor, and cardiopulmonary resuscitation was begun. An Ambu bag with high flow oxygen was used. Two intra-cardiac epinephrine injections were given. Paramedics were called and responded. Patient 1 was transported to Riverside Community Hospital.

14. Patient 1 arrived at Riverside Community Hospital with no pulse and with no viable airway due to vomitus. She was intubated in the emergency department, and there was a return of spontaneous circulation. Patient 1 suffered an anoxic brain injury. Life support was withdrawn on November 14, 2016, and Patient 1 expired.

15. A coroner's investigation was completed. Patient 1's death was classified as an accident due to complications of a medical procedure. The autopsy report revealed a large contusion within the cervical spinal cord at the level of C3-C4. Insertion of a needle and injection at this level would explain Patient 1's sudden cardiac arrest and death.

16. One hour prior to administering a cervical epidural steroid injection to Patient 1, Respondent administered the same type of cervical epidural steroid injection on Patient 2.

17. Respondent has performed thousands of epidural injections. He was not trained to use imaging in giving the injections. He did not use fluoroscopic guidance in performing the procedures for either Patient 1 or Patient 2.

CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

18. Respondent Hampton T. Gaskins, M.D. is subject to disciplinary action under section 2234, subdivision (c), of the Code in that he committed repeated negligent acts. The circumstances are as follows:

19. The standard of care in performing a cervical epidural steroid injection is to do so under fluoroscopic guidance to confirm needle placement and to ensure the injection is placed in the epidural space and not in an artery or an unknown and potentially dangerous space of the cervical spine. The injection should not be performed at the level of C3-C4.

20. By reason of the allegations in paragraphs 6 through 15 and 17, Respondent was negligent in performing a cervical epidural steroid injection on Patient 1 without the use of fluoroscopy.

21. By reason of the allegations in paragraphs 6, 7, 16, and 17, Respondent was negligent in performing a cervical epidural steroid injection on Patient 2 without the use of fluoroscopy.

22. Respondent's acts and omissions as set forth above constitute repeated negligent acts in violation of section 2234, subdivision (c) of the Code, and his license is subject to discipline.

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 36905, issued to Hampton T. Gaskins, M.D.;

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

3. If placed on probation, ordering him to pay the Board the costs of probation monitoring; and

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

DATED: November 26, 2019

CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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