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

In the Matter of the Accusation Against: Dennis Drewe Wilcox, M.D. Physician's and Surgeon's Certificate No. A 44471 Respondent.	Case No. 800-2018-047736

DECISION

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand 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 February 18, 2021.

IT IS SO ORDERED January 19, 2021.

MEDICAL BOARD OF CALIFORNIA

Kristina Lawson

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

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising 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: **Dennis Drewe Wilcox, M.D.** **3800 Janes Rd.** **Arcata CA 95521-4742** **Physician's and Surgeon's Certificate No. A 44471,** Respondent.	Case No. 800-2018-047736 OAH No. 2020060372 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER FOR PUBLIC REPRIMAND**

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). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, via Joshua M. Templet, Deputy Attorney General.

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2. Respondent Dennis Drewe Wilcox, M.D. (Respondent) is represented in this proceeding by attorney David M. Korrey, whose address is, 624 South Ninth Street Las Vegas, NV 89101.

3. On February 16, 1988, the Board issued Physician's and Surgeon's Certificate No. A44471 to Dennis Drewe Wilcox, 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. 800-2018-047736, and will expire on January 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-047736 (Accusation) 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 March 27, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of the Accusation 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 Accusation. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

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.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case for the charges in the Accusation, and Respondent hereby gives up his right to contest those charges.

11. 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 for Public Reprimand 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 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 for Public Reprimand, the Stipulated Settlement and Disciplinary Order for Public Reprimand 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 an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in the Accusation shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding.

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

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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 for Public Reprimand:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent, Dennis Drewe Wilcox, M.D., holder of Physician's and Surgeon's Certificate No. A 44471 is **publicly reprimanded**, pursuant to Business and Professions Code section 2227. This Public Reprimand is issued as a result of the following conduct by Respondent as set forth in the Accusation:

> An investigation by the Medical Board of California revealed that Respondent failed to offer a chaperone to a patient prior to a rectal examination, and scheduled a subsequent pelvic/vaginal examination for this patient without documentation of the medical indication.
>
> These actions constitute a violation of California Business and Professions Code section 2234, subdivision (c) (repeated negligent acts).

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reprimand and have fully discussed it with my attorney, David M. Korrey. 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 for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 100920

DENNIS DREWE WILCOX, M.D.
Respondent

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I have read and fully discussed with Respondent Dennis Drewe Wilcox, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reprimand. I approve its form and content.

DATED: 10/9/20

DAVID M. KORREY, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: October 9, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

Joshua M. Templet
JOSHUA M. TEMPLET
Deputy Attorney General
Attorneys for Complainant

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Stipulated Settlement for Public Reprimand.docx

Exhibit A

Accusation No. 800-2018-047736

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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: **Dennis Drewe Wilcox, M.D.** **3800 Janes Rd.** **Arcata, CA 95521-4742** **Physician's and Surgeon's Certificate No. A 44471,** Respondent.	Case No. 800-2018-047736 **A C C U S A T I O N**

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, Department of Consumer Affairs (Board).

2. On February 16, 1988, the Board issued Physician's and Surgeon's Certificate Number A 44471 to Dennis Drewe Wilcox, 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, 2022, 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 (Code) unless otherwise indicated.

4. Section 2004 provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. Section 2227 authorizes the Board to take action against a licensee who has been found guilty under the Medical Practice Act by revoking his or her license, suspending the license for a period not to exceed one year, placing the license on probation and requiring payment of costs of probation monitoring, or taking such other action as the Board deems proper.

6. At all times relevant to this matter, Respondent was licensed and practicing medicine in California.

STATUTORY PROVISIONS

7. Section 2234 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.

. . .

8. Section 2266 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."

FACTUAL ALLEGATIONS

9. In 2017, Respondent practiced general surgery in Arcata, California. A local health clinic referred patient P-1,[1] a 64-year-old woman, to Respondent for treatment of hemorrhoids and to be screened for cancer with a colonoscopy, as a follow-up to a positive test for blood in her feces.

10. On April 11, 2017, Respondent saw P-1 in his surgery clinic. No chaperone was present and the two were alone in the examination room. Respondent introduced himself and the two spoke for a brief time. Respondent then took hold of the top button of P-1's jeans, near her waist, and tugged the top of her jeans from side to side, apparently as a means of suggesting that she remove her pants. P-1 became afraid and confused, and she asked whether Respondent's actions meant that he now wanted to proceed to examine her.

11. Respondent remained in the examination room and watched P-1 as she removed her pants and underwear. P-1 was nude from the waist down.

12. Respondent then performed a rectal examination on P-1, by placing his gloved, lubricated finger into her rectum to feel for unusual masses. The examination confirmed grade 3 hemorrhoids.

13. Respondent strongly urged P-1 to have surgery for her hemorrhoids right away, without delay. Respondent scheduled the patient for a surgical procedure for prolapse and hemorrhoids (PPH) and a simultaneous colonoscopy, to be performed under general anesthesia, two weeks later, on April 24, 2017.

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

14. Two days after P-1's visit and examination, Respondent electronically signed an operating room surgery scheduling form, confirming that P-1 would undergo the PPH and colonoscopy, on April 24, 2017. The form also stated:

> OTHER NOTES: ** PLEASE NOTE: DR. WILCOX WOULD LIKE TO PERFORM A VAGINAL EXAM ON THIS PATIENT PRIOR TO THE ABOVE PROCEDURES/SURGERY**

Respondent also electronically signed a pre-operative orders form, on April 13, 2017, reflecting his intent to perform a vaginal examination during P-1's upcoming surgical visit. Respondent did not document any indication for or any discussion with the patient about a vaginal examination.

15. The patient did not show for the scheduled procedures.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Repeated Negligence and Inadequate Recordkeeping)

16. Respondent's failure to provide or offer P-1 a chaperone during her rectal examination, combined with his behavior during her visit, including but not limited to his tugging at her pants rather than verbally explaining his intent to proceed with a physical examination, and his remaining in the room and watching her while she undressed without offering her a gown or sheet to cover herself, was a departure from the standard of care.

17. In addition, Respondent's scheduling of a vaginal examination of the patient without documenting any indication for such an examination was a departure from the standard of care. Respondent scheduled P-1 for a vaginal examination by him, without documenting any reason for the examination. Further, there was no reason for referring the patient to a general surgeon like Respondent for such an examination. Rather, to the extent that a vaginal examination was needed, such examination should have been referred to an obstetrician-gynecologist. If there were an indication for a vaginal examination of P-1, Respondent's failure to document it constituted a departure from the standard of care as well as inadequate recordkeeping in violation of Code section 2266 (inadequate recordkeeping).

18. Respondent's departures from the standard of care violated Code section 2234, subdivision (c) (repeated negligence).

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DISCIPLINARY CONSIDERATIONS

19. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that, on March 18, 2004, in a prior disciplinary action titled *In the Matter of the Accusation Against Dennis Drewe Wilcox, M.D.*, case number 10-2001-122883, the Board disciplined Respondent for failing to timely operate on a patient with a perforated appendix, in 2001. The Board entered a disciplinary decision against Respondent, placing his Physician's and Surgeon's Certificate on probation for three years. The Board's disciplinary decision is incorporated by reference as if fully set forth herein. On November 27, 2006, the Board granted Respondent's petition to terminate his probation.

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 44471, issued to Dennis Drewe Wilcox, M.D.;

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

3. Ordering Dennis Drewe Wilcox, 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: MAR 27 2020

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

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