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

In the Matter of the Accusation Against: Donald Alton Vance, M.D. Physician's & Surgeon's Certificate No C34997 Respondent	Case No. 800-2017-029766

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 March 10, 2021.

IT IS SO ORDERED February 8, 2021.

MEDICAL BOARD OF CALIFORNIA

By: Richard E. Thorp MD

Richard E. Thorp, M.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
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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:	Case No. 800-2017-029766
DONALD ALTON VANCE, M.D. 4201 Sweetwater Road Bonita, California 91902	OAH No. 2020040790
Physician's and Surgeon's Certificate No. C 34997, Respondent.	**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), Department of Consumer Affairs. 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, and by Joseph F. McKenna III, Deputy Attorney General.

2. Respondent Donald Alton Vance, M.D., (Respondent) is represented in this proceeding by attorney Thomas M. Peabody, Esq., whose address is: 527 Encinitas Boulevard, Suite 100, Encinitas, California, 92024.

3. On or about April 24, 1973, the Board issued Physician's and Surgeon's Certificate No. C 34997 to 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. 800-2017-029766, and will expire on September 30, 2021, unless renewed.

JURISDICTION

4. On January 16, 2020, Accusation No. 800-2017-029766 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of the Accusation is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2017-029766. Respondent has also read, discussed with counsel, and fully 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 contained in the 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, having been fully advised of same by his attorney of record, Thomas M. Peabody, Esq.

7. Having the benefit of counsel, Respondent hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent fully understands and agrees that the charges and allegations contained in Accusation No. 800-2017-029766, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate No. C 34997.

9. Respondent stipulates that, at a hearing, Complainant could establish a *prima facie* case or factual basis for the charges and allegations contained in the Accusation; that he gives up his right to contest those charges and allegations contained in the Accusation; and that he has thereby subjected his Physician's and Surgeon's Certificate No. C 34997 to disciplinary action.

CONTINGENCY

10. 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 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.

11. Respondent agrees that if an accusation is ever filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2017-029766 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.

ADDITIONAL PROVISIONS

12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled 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 opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND.

IT IS HEREBY ORDERED that Respondent Donald Alton Vance, M.D.'s Physician's and Surgeon's Certificate No. C 34997, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a), subsection (4). This Public Reprimand, which is issued in connection with the charges and allegations as set forth in Accusation No. 800-2017-029766, is as follows:

> "Respondent is publicly reprimanded for violating Business and Professions Code section 2234, subdivision (c), in 2014, for failing to perform a complete history and physical examination, and for failing to obtain additional testing due to Patient A's tachycardia, persistently elevated WBC count with bandemia, and elevated lactate."

2. EDUCATION COURSE.

Within ninety (90) calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational course(s) addressing both areas of: (a) recognizing symptoms of Systemic Inflammatory Response Syndrome (SIRS), and (b) appropriate work-up of a patient presenting with criteria for SIRS. Respondent shall complete no less than twenty (20) hours of course-work in addressing both areas of (a) and (b). The educational course(s) shall be Category I certified. The educational course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education requirements for renewal of licensure. Following the completion of the approved educational course(s) addressing both areas of (a) and (b), the Board or its designee may administer an examination to test Respondent's knowledge of the course(s).

An education course taken after the acts that gave rise to the charges in Accusation No. 800-2017-029766, 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 fifteen (15) calendar days after successfully completing the course(s), or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

3. FAILURE TO COMPLY.

Any failure by Respondent to comply with the terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and 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, Thomas M. Peabody, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 34997. 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: 11/25/2020

DONALD ALTON VANCE, M.D.
Respondent

I have carefully read and fully discussed with Respondent Donald Alton Vance, 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: 12/1/2020

THOMAS M. PEABODY, ESQ.
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: December 18, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

SD2019505509
Doc.No.82618859

Exhibit A

Accusation No. 800-2017-029766

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO
BY: Anna Logan January 16 2020
ANALYST

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

In the Matter of the Accusation Against:	Case No. 800-2017-029766
DONALD ALTON VANCE, M.D. **4201 Sweetwater Road** **Bonita, California 91902** **Physician's and Surgeon's Certificate No. C 34997,** Respondent.	**A C C U S A T I O N**

Complainant alleges:

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 or about April 24, 1973, the Medical Board issued Physician's and Surgeon's Certificate Number C 34997 to Donald Alton Vance, 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 September 30, 2021, 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 (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
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> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code states, in relevant 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:
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> ...
>
> (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)

7. Respondent has subjected his Physician's and Surgeon's Certificate No. C 34997 to disciplinary action under sections 2227 and 2234, as defined in section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

8. On or about September 6, 2014, at approximately 10:30 a.m., Patient A, a then-46-year-old female, presented at Scripps Mercy Hospital Chula Vista's (SMHCV) Emergency Department with a chief complaint of vomiting. Respondent evaluated Patient A in the Emergency Department at this visit.

9. Per the nursing notes, Patient A's arrival vital signs were a blood pressure of 136/88; heart rate of 112; respiratory rate of 16; an oxygen saturation of 97% on room air; and a temperature of 96.0 tympanic, followed by an oral temperature of 98.3. The notes also recorded that Patient A appeared pale, clammy and diaphoretic, and that she had reported nausea, vomiting, and diarrhea.

10. Respondent ordered multiple labs, chemistries, and an EKG was also performed. The lab results were significant for an elevated white blood cell (WBC) count of 16.1 K/mcL, with an elevated percentage of immature bands of 15% and an elevated C-reactive protein (CRP) of 58.4 mg/L. The lab results also showed a mildly elevated lactate of 2.7 mmol/L and had mild elevations in several of Patient A's liver function tests.

11. Respondent documented that Patient A was in acute distress from continuous vomiting and retching, and that she had been feeling very weak. Respondent also documented

[1] To protect the privacy of the patient involved in this matter, Patient A's name has not been included in this pleading. Respondent is aware of the identity of Patient A.

past surgical history for Patient A which included a recent procedure in August 2014 at an outside hospital for a panniculectomy[2] and abdominal dermolipochalasis surgery.

12. Respondent performed a physical examination and review of systems for Patient A, but he did not address whether she had any urinary symptoms that could be a source of infection. Respondent noted a healing scar across Patient A's abdomen with some mild irritation at the suture line, but found no evidence of any cellulitis.

13. Although Patient A had a JP drain[3] in place when she returned to the Emergency Department at SMHCV the next day on September 7, Respondent did not document the presence of a JP drain in the record on September 6. Moreover, an evaluation of the characteristics of the output of the drain – which would involve an assessment of a postsurgical patient with the same presentation as Patient A – is missing from the record.

14. Significantly, Respondent did not order a urinalysis or a CT of the abdomen to further assess a source of possible infection.

15. Labs performed approximately four hours after obtaining the first values showed a persistently elevated WBC count at 15.5K/mcL and an elevated band count of 13%. No other blood tests were repeated following these results prior to Patient A's discharge on September 6.

16. Per the nursing notes, Patient A's vital signs taken shortly before discharge at 4:00 p.m., recorded blood pressure of 99/58; heart rate of 105; respiratory rate of 18; and an oxygen saturation of 100% on room air.

17. After approximately five and a half hours in the Emergency Department, Respondent determined that Patient A had clinically improved and discharged her home with follow-up instructions and return precautions. Notwithstanding Patient A's persistent tachycardia, elevated

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[2] Panniculectomy is an operative procedure done to remove stretched out skin, excess fat and overhanging skin from a patient's abdomen. This procedure is performed on patients with a large overhanging abdominal skin pannus, which can occur after a person undergoes massive weight loss.

[3] A Jackson-Pratt drain (also called a JP drain) is a closed-suction medical device that is commonly used as a post-operative drain for collecting bodily fluids from surgical sites. Patient A had a JP drain in place due to her panniculectomy in August 2014.

WBC count with elevated band count, and elevated lactate, Respondent did not order any further blood tests, perform any other work-up or additional testing before discharging her home.

18. On September 23, 2019, Respondent was interviewed by investigators at the Health Quality Investigation Unit's San Diego field office regarding the care and treatment he had provided to Patient A. Respondent told investigators that he had been concerned that the patient was sick and needed to be admitted to the hospital, so he consulted the hospitalist on call to admit the patient. Respondent further stated that the hospitalist later examined Patient A, but there is no record of this occurring during the visit on September 6. Respondent then stated that the hospitalist did not feel Patient A met the criteria for admission, and even if she did admit the patient, she would not admit Patient A unless she was seen by her surgeon who had performed the panniculectomy. According to Respondent, he tried multiple times to reach her surgeon but with no success. No information regarding the discussion with the hospitalist or attempts to reach the surgeon were documented in the record. Finally, Respondent told investigators that when he did not hear back from Patient A's surgeon, he consulted the general surgeon on call at SMHCV and discussed the case with him over the phone. Respondent stated that the surgeon told him "there was nothing that required acute surgical intervention." Again, there is no documentation of this discussion or consultation note in the patient's record.

19. On September 7, 2014, Patient A returned to SMHCV with fever, progressive weakness, lethargy and hypotension. She was admitted to the intensive care unit with the diagnosis of profound sepsis and multi-organ system failure.

20. Respondent committed repeated negligent acts in his care and treatment of Patient A which includes, but is not limited to, the following:

a. Respondent failed to perform a complete history and physical examination, and obtain additional testing due to Patient A's tachycardia, persistently elevated WBC count with bandemia, and elevated lactate; and

b. Respondent failed to appropriately document consultations and recommendations from discussions with the hospitalist and the on-call surgeon at SMHCV.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

21. Respondent has further subjected his Physician's and Surgeon's Certificate No. C 34997 to disciplinary action under sections 2227 and 2234, as defined in section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records in connection with his care and treatment of Patient A, as more particularly alleged hereinafter:

22. **Patient A**

(a) Paragraphs 13 and 18, above, are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

23. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about June 20, 2018, in a prior Medical Board of California investigation, Case No. 800-2015-017401, the Board issued a pre-accusation Public Letter of Reprimand against Respondent's Physician's and Surgeon's Certificate No. C 34997, which was based on findings that Respondent failed to complete a chest wall examination of a patient after admission, failed to correctly interpret and further investigate an abnormal EKG reading, discharged the patient with abnormal vital signs, and failed to document the patient's refusal of repeat troponin testing. These findings constituted violations of Business and Professions Code sections 2234, subsection (c), and 2266. That Public Letter of Reprimand is now final and is incorporated by reference as if fully set forth herein.

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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 C 34997, issued to Respondent Donald Alton Vance, M.D.;

2. Revoking, suspending or denying approval of Respondent Donald Alton Vance, M.D.'s, authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent Donald Alton Vance, M.D., to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and

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

DATED: JAN 16 2020

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

SD2019505509
Doc.No.72092653