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

In the Matter of the Accusation Against: Dana Maxwell Shipp, M.D. Physician's & Surgeon's Certificate No A 65056 Respondent	Case No. 800-2017-029759

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 25, 2021.

IT IS SO ORDERED May 26, 2021.

MEDICAL BOARD OF CALIFORNIA

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: **Dana Maxwell Shipp, M.D.** **9040 Friars Road, Suite 540** **San Diego, CA 92108** **Physician's and Surgeon's Certificate No. A 65056,** Respondent.	Case No. 800-2017-029759 OAH No. 2020110156 **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). 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, by Rosemary F. Luzon, Deputy Attorney General.

2. Respondent Dana Maxwell Shipp, M.D. (Respondent) is represented in this proceeding by attorneys Scott D. Buchholz, Esq. and Christopher M. Freistedt, Esq., whose address is: Dummit, Buchholz & Trapp, 101 W. Broadway, Suite 1400, San Diego, CA, 92101.

3. On or about May 1, 1998, the Board issued Physician's and Surgeon's Certificate No. A 65056 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. 800-2017-029759, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-029759 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 January 27, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A true and correct copy of Accusation No. 800-2017-029759 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. 800-2017-029759. 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. Having the benefit of counsel, 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, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2017-029759, and Respondent hereby gives up his right to contest those charges.

Respondent further agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. A 65056 to disciplinary action.

10. Respondent further agrees that if an accusation is filed against him by the Board in the future, all of the charges and allegations contained in Accusation No. 800-2017-029759, 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.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. A 65056 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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 opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Dana Maxwell Shipp, M.D.'s Physician's and Surgeon's Certificate No. A 65056, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand, which is issued in connection with Accusation No. 800-2017-029759, is as follows:

> On or about December 31, 2015, after performing a C-section, you failed to properly respond to your patient's clinical and laboratory indications of ongoing postoperative bleeding, as more fully described in Accusation No. 800-2017-029759.

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 program(s) or course(s) which shall not be less than 40 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 program(s) or course(s) shall be completed not later than six (6) months after Respondent's initial enrollment. 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.

Any failure to fully comply with this term and condition of the Disciplinary Order shall constitute unprofessional conduct and will subject Respondent's Physician's and Surgeon's Certificate to further disciplinary action.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney. 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: 26JAN2021

DANA MAXWELL SHIPP, M.D.
Respondent

I have read and fully discussed with Respondent Dana Maxwell Shipp, 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: 1/27/2021

SCOTT D. BUCHHOLZ, ESQ.
CHRISTOPHER M. FREISTEDT, ESQ.
Attorneys for Respondent

ENDORSEMENT

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

DATED: 1/27/21

Respectfully submitted,

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

for

ROSEMARY F. LUZON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-029759

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 27 2020
BY: Shari Wilkie ANALYST

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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: **Dana Maxwell Shipp, M.D.** **9040 Friars Road, Suite 540** **San Diego, CA 92108** **Physician's and Surgeon's Certificate No. A 65056,** Respondent.	Case No. 800-2017-029759 **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, Department of Consumer Affairs (Board).

2. On or about May 1, 1998, the Medical Board issued Physician's and Surgeon's Certificate No. A 65056 to Dana Maxwell Shipp, 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 March 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 (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:
>
> ...
>
> (b) Gross negligence.
>
> ...

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

6. Respondent has subjected his Physician's and Surgeon's Certificate No. A 65056 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he was grossly negligent in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

7. On or about December 31, 2015, at approximately 3:20 a.m., Patient A presented to Labor and Delivery at Sharp Mary Birch Hospital with a desire to deliver her baby vaginally after a prior cesarean section (c-section). Patient A had no prior history of kidney disease.

8. After laboring for several hours without successfully achieving a vaginal delivery, at approximately 8:31 p.m., Respondent performed a repeat c-section on Patient A.

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

9. Postoperatively, despite massage and medication, Patient A developed a postpartum hemorrhage. At approximately 12:29 a.m. the next morning, Respondent ordered the placement of a Bakri Balloon,[2] which was performed by another physician who had experience with this device.

10. After placement of the Bakri Balloon, Patient A's hemoglobin and hemocrit (H/H) levels did not markedly improve despite her continued receipt of blood products and no additional vaginal bleeding. At approximately 3:45 a.m., the patient was transferred to the intensive care unit.

11. At approximately 6:26 a.m., Patient A was hypotensive, pale, cool with mottled extremities, and had an abdominal pressure of 27. Despite her lack of improvement, Respondent did not order diagnostic testing, and decided to wait to allow Patient A's blood loss and transfusions to "sort itself out."

12. At approximately 6:40 a.m., a pulmonary / critical care specialist was called STAT to the patient's bedside. He discussed the case with Respondent, who was still not concerned with uterine rupture at that time. After evaluating the patient, the specialist diagnosed Patient A with hemorrhagic shock secondary to uterine bleeding from uterine atonia. The plan at that time was to continue with blood products and monitoring the patient's CBC, platelets, INR and electrolytes.

13. At approximately 8:30 a.m., Respondent went off duty and transferred the care of Patient A to another OBGYN. Over the course of the next several hours, Patient A's H/H levels continued to decline to critical values, her urine output slowed, she became tachycardic, hypotensive, and complained of shortness of breath. At approximately 1:59 p.m., an ultrasound revealed free fluid in the patient's abdomen and she was subsequently and urgently taken for an exploratory laparotomy, during which a significant hemoperitoneum was evacuated in excess of 3 liters, and a posterior uterine rupture was identified.

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[2] A Bakri Balloon is a medical device used to provide temporary control or reduction of postpartum uterine bleeding.

14. Respondent committed gross negligence in his care and treatment of Patient A by failing to properly respond to the patient's clinical and laboratory indications of ongoing postoperative bleeding.

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 No. A 65056, issued to Respondent, Dana Maxwell Shipp, M.D.;

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

3. Ordering Respondent Dana Maxwell Shipp, 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: January 27, 2020

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

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