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

In the Matter of the Accusation Against: Leif Liu Rogers, M.D. Physician's and Surgeon's Certificate No. A 86603 Respondent.	Case No.: 800-2019-054186

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 17, 2021.

IT IS SO ORDERED: August 18, 2021.

MEDICAL BOARD OF CALIFORNIA

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

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Attorney General of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: LEIF LIU ROGERS, M.D. Penthouse 9735 Wilshire Boulevard Beverly Hills, CA 90210 Physician's and Surgeon's Certificate No. A 86603, Respondent.	Case No. 800-2019-054186 OAH No. 2021020539 **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 Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith, Deputy Attorney General.

2. Respondent Leif Liu Rogers, M.D. (Respondent) is represented in this proceeding by attorney Frank Seddigh, whose address is 6121 Sunset Boulevard, Los Angeles, California 90028.

3. On or about April 2, 2004, the Board issued Physician's and Surgeon's Certificate No. A 86603 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-054186, and will expire on August 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-054186 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 20, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-054186 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. 800-2019-054186. 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 understands and agrees that the charges and allegations in Accusation No. 800-2019-054186, 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 or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in Accusation No. 800-2019-054186, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 86603 to disciplinary action.

12. 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.

CONTINGENCY

13. 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.

14. 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. 800-2019-054186 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.

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15. 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.

16. 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. A 86603 issued to Respondent LEIF LIU ROGERS, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. EDUCATION COURSE. Within sixty (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 forty (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.

2. MEDICAL RECORD KEEPING COURSE. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping 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 six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the

Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping 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 fifteen (15) calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the

scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program 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. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

4. MONITORING - PRACTICE. Within thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within fifteen (15) calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor

disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within sixty (60) calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the effective date of this Decision, 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. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within ten (10) calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, 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. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee that includes, at minimum, quarterly chart

review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

5. 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.

6. 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.

7. 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 ten (10) calendar days after the end of the preceding quarter.

8. 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 thirty (30) calendar days prior to the dates of departure and return.

9. 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.

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than 30 calendar days and within fifteen (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 forty (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 eighteen (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.

11. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

12. 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.

13. 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.

14. 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.

15. 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. 800-2019-054186 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.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Frank Seddigh. 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: 7/16/2021

DocuSigned by:
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LEIF LIU ROGERS, M.D.
Respondent

I have read and fully discussed with Respondent Leif Liu Rogers, 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: 7/14/2021

DocuSigned by:
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FRANK SEDDIGH
Attorney for Respondent

ENDORSEMENT

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

DATED: 7/19/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

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

In the Matter of the Accusation Against: LEIF LIU ROGERS, M.D. Penthouse 9735 Wilshire Boulevard Beverly Hills, CA 90210 Physician's and Surgeon's Certificate No. A 86603, Respondent.	Case No. 800-2019-054186 **ACCUSATION**

PARTIES

1. William Prasifka ("Complainant") brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").

2. On or about April 2, 2004, the Medical Board issued Physician's and Surgeon's Certificate Number A 86603 to Leif Liu Rogers, M.D. ("Respondent"). That license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2021, unless renewed.

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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.

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 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.

(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.

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 that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

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

(g) The 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.

7. 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.

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FACTUAL ALLEGATIONS

8. On May 27, 2016, Patient 1,[1] a 34-year-old female, presented to Respondent, a plastic surgeon, for a cosmetic surgery consultation. Her patient intake form reflects that she was interested in liposuction of the abdomen, flanks, and back with fat transfer into her breasts and calves, as well as breast implant placement. On June 3, 2016, Patient 1 saw Respondent for a second consultation, at which time she added additional areas for liposuction (thighs, arms, and lateral chest) and also requested buttock fat transfer. Another surgeon, Dr. Z.M., was scheduled to perform a hemorrhoidectomy on Patient 1 during the same surgical setting. Medical clearance was obtained, including preoperative laboratory studies and mammography.

9. On September 20, 2016, Patient 1 underwent the planned surgeries at the Beverly Hills Ambulatory Surgery Center. Dr. Z.M.'s hemorrhoidectomy portion of the procedure began at 8:42 a.m. and ended at 9:29 a.m. Thereafter, Respondent began his surgery at approximately 9:30 a.m., infiltrating 2,700 milliliters (ml) of tumescent solution[2] in the areas to undergo liposuction with the patient prone on the operating table. Respondent suctioned 3,670 ml of fat and fluid, of which he stated 2,670 ml was "pure fat." The fat was decanted and then injected into the buttocks (300 ml per side) and the posterior calves (300 ml on the left side, and 350 ml on the right side).

10. After closure of the back incisions, the patient was turned to the supine position, re-prepped and draped. Tumescent solution was placed into the abdominal fat layer and the abdomen was suctioned of 3,200 ml. The total amount suctioned was 6,870 ml.

11. Breast implants were then placed bilaterally. After closure of the incision, the breasts were grafted with some of the residual back fat, placing 100 ml into the right breast and 215 ml into the left breast for volume asymmetry. Surgery was completed at approximately 5:00 p.m., encompassing over 8 hours of general anesthesia.

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[1] For privacy purposes, the patient in this Accusation is referred to as Patient 1.

[2] Tumescent solution is a dilute solution of saline, lidocaine, and epinephrine that is injected into subcutaneous fat before liposuction to facilitate fat removal. The solution also causes the blood vessels to temporarily shrink, reducing blood loss during the procedure as well as bruising, swelling and pain after the procedure.

12. Patient 1 was then taken to the Post Anesthesia Care Unit ("PACU") at 5:17 p.m. She complained of pain and was given 0.2 milligrams of Dilaudid[3] at 5:20 p.m., which was noted to be ineffective. She was given another 0.2 milligrams of Dilaudid at 5:45 p.m., at which time her pain was reported as minimal. In an untimed notation, the PACU nursing record reflects that the patient stated that her left foot was numb and she could not move her feet. In a subsequent nursing note timed at 6:45 p.m., the patient reported that she could not feel or move her left foot. PACU Nurse J.L. noted that the patient's foot was warm to touch and that pedal pulses were checked by anesthesiologist, Dr. A.B. At 7:00 p.m. Respondent was notified of the patient's condition. PACU Nurse J.L. documented at 7:15 p.m. that the patient stood, was able to perform range of motion of both legs and feet and eventually, was able to move her left leg and foot with sensation returning. At 7:25 p.m., the patient was dressed and resting in a wheelchair for discharge. At 7:35 p.m., Patient 1 was discharged to stay at the Beverly Hills Hotel in the care of Patient 1's friend, D.F., a licensed vocational nurse.[4] At that time, PACU Nurse J.L. noted that the patient's feet were warm and pedal pulses were palpable. In addition, Nurse D.F. was instructed to check the patient's pulses every 2 to 4 hours. The patient stated that feeling was coming back to her left extremity and she was able to move her feet. The patient transferred herself into the car and the PACU nurse notified Respondent.

13. Patient 1's medical records do not reflect the time Respondent left the surgery center after the patient's surgery or the interactions he had with the patient prior to his departure. In a summary of his care and treatment of Patient 1 that Respondent provided to the Board, he stated that before he left the surgery center. He was informed that the patient complained of numbness to her lower legs and feet as well as an inability to move her feet. Respondent further reported that he examined Patient 1 and she was resting comfortably in the PACU. Respondent claimed that lower extremity numbness is a normal finding after fat grafting to the calves and that he

[3] Dilaudid is an opioid analgesic used for pain management.

[4] Rather than going to a local skilled nursing facility for postoperative monitoring, Patient 1 had made arrangements for Nurse D.F. to serve as her postoperative private duty nurse. Nurse D.F. was notified at the completion of Patient 1's surgical procedure that once stable, Patient 1 would be ready for discharge. Nurse D.F. then arrived at the PACU for Patient 1's discharge.

instructed Nurse D.F. that if the sensation and motion did not return throughout the evening, or if there seemed to be no improvement in sensation or motion over the next couple of hours, or if the pain worsened significantly, Nurse D.F. was to call him. Respondent claims that he explained to Nurse D.F. that compartment syndrome[5] is a known complication of fat grafting to the calves, similar to the risk of calf implants, and that time would be of the essence if the patient's condition did not improve. Respondent reports that he then left the surgery center.

14. Patient 1's medical records have no entries by Respondent regarding the discussions he claims that he had with the patient and Nurse D.F. after he left the surgery center. In the summary of his care and treatment of Patient 1, Respondent stated that after he left the surgery center he was called by Dr. A.B. when the patient reported that she could not feel or move her left foot. Dr. A.B. told Respondent that he examined the patient, noted that her distal pulses were intact and that the patient was finally able to stand and was beginning to get some feeling back. In his summary, Respondent stated that he thought the patient's numbness was residual of the lidocaine retained in the grafted fat. He reiterated that he instructed Nurse D.F. and the patient to call him if there was no change or if the numbness persisted. Respondent further instructed Nurse D.F. to check the patient's condition every 2 hours. Otherwise, the patient was to return to the surgery center the next morning to be examined by him.

15. The following day, September 21, 2016, Patient 1 returned to the surgery center complaining of pain, numbness and an inability to urinate. Respondent was interrupted during a surgical procedure he was performing on different patient. He left the operating room to examine Patient 1 in the PACU. He diagnosed compartment syndrome in Patient 1's calves and performed a decompression using a liposuction cannula under local anesthesia at the patient's bedside in the PACU.[6] Compartment pressures were not measured. Respondent then returned to the operating room to continue the surgery that had been in progress when Patient 1 presented. After completing the interrupted procedure, Respondent again examined Patient 1 and assessed

[5] Compartment syndrome is an emergent condition that involves increased pressure in a muscle compartment. It can lead to muscle and nerve damage, problems with blood flow, and tissue death.

[6] There is no documentation of this event, other than a reference in Respondent's subsequent September 21, 2016 operative note that the posterior capsule had been "opened previously."

excessive swelling and pain. He then took Patient 1 to the operating room where he performed a release of the anterior compartment of each leg via a small skin incision and a "pickle fork" to incise the muscular fascia. Back in the PACU, Patient 1 was noted to have dark amber urine. A dose of Lasix diuretic was given and the color of her urine was then yellow/pink. She was discharged back to her hotel.[7]

16. Later that evening, Respondent followed up with the patient and subsequently notified Cedars Sinai Medical Center emergency room that he was sending Patient 1 in to rule out compartment syndrome. Respondent met the patient in the emergency department at approximately 11:00 p.m. The patient's compartment pressures were in in the 50 to 60 range.[8] Respondent contacted the operating room staff to notify them of the need for emergent calf decompression surgery for the patient. At approximately 3:00 a.m. on September 22, 2016, the patient was taken to the operating room. The patient was anesthetized and trauma surgeon, Dr. E.L., assisted in the decompression. Respondent performed bilateral single-incision four-compartment fasciotomies. The lateral and deep compartments were released.

17. Following surgery, Dr. E.L. made the following notation: "Although my recommendation was to perform bilateral incision on each leg, I assisted with the lateral incisions that were performed and was able to identify the four compartments on each leg along with the division of the overlying fascia. The patient will need to be followed closely for neuro check and may require additional medial incisions."

18. Postoperatively, the patient could not move her toes. A neurologic examination revealed lack of sensation and no motor function. The compartment release performed by Respondent had been incomplete. Thereafter, the trauma team took over the care of the patient and she was no longer in Respondent's care. The patient was then returned to the operating room that same day, September 22, 2016, by general surgeon, Dr. N.M., for medial incisions and

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[7] Respondent stated that after performing the closed fasciotomies on September 21, 2016, he recommended that the patient go to the emergency department so that he could measure her compartment pressures and possibly perform open interventions if needed, but that she declined. This is not documented in the patient's medical records.

[8] Normal compartment pressures are between 0 to 8 mm Hg.

further decompression. Patient 1 was maintained in the intensive care unit (ICU) because of concerns for possible renal failure. On September 25, 2016, Dr. C.L., an orthopedic surgeon, performed an excisional debridement of muscle in both lower extremities. The patient was noted to continue to have significant motor and sensory defects of the lower extremities. On September 26, 2016, she was transferred to Cottage Hospital in Santa Barbara for hyperbaric oxygen treatments and rehabilitation.

STANDARD OF CARE

19. Compartment syndrome in the lower extremities is characterized by pain, distal numbness, and diminished ability to use the affected limb. When a postoperative patient presents with symptoms of numbness of the foot, inability to move the feet, and discomfort, the standard of care requires that the physician consider and evaluate the patient for compartment syndrome.

20. Once a physician recognizes signs of compartment syndrome, the standard of care requires that surgical decompression be performed as quickly as possible.

21. When performing a fat grafting procedure, the standard of care requires that the physician recognize the appropriate end point, which is the maximum amount of graft material that can be injected without causing vascular, neurological, or muscular compromise.

22. When injecting fat intramuscularly, the standard of care requires that the surgeon measure the compartment pressure to avoid compartment syndrome. This can be performed by way of clinical judgment as well as utilizing pressure testing devices which assure patient safety.

23. The standard of care requires that physicians adequately document care and treatment provided as well as instructions given to patients.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

24. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that he engaged in gross negligence in the care and treatment of Patient 1. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 20, above, as though fully set forth. The circumstances are as follows:

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25. Respondent failed to timely recognize that Patient 1 was suffering from compartment syndrome. Respondent was notified while the patient was in the PACU on September 20, 2016, that she had numbness of her left foot and an inability to move her feet and toes. Respondent incorrectly attributed the numbness to the "residual lidocaine" within the grafted fat from the tumescent solution injected approximately 8 hours earlier. By the time the patient arrived in the PACU, there should have been no local anesthetic effect of lidocaine on her feet.

26. Respondent failed to treat Patient 1's compartment syndrome in a timely manner. On September 21, 2016, postoperative day number 1, Respondent recognized signs of compartment syndrome in the patient's legs. At that time, Respondent should have initiated definitive treatment with open fasciotomies or sent Patient 1 to the emergency department for treatment. Instead, Respondent, who was otherwise occupied, left the operating room during a surgical procedure, examined Patient 1 in the PACU and performed bedside decompression on Patient 1 in the PACU. He then returned to the operating room to finish the surgery on the other patient. Thereafter, Respondent took Patient 1 to the operating room at which time he performed a small incision release of the anterior compartment of each leg, opening the capsules blindly using a pickle fork rather than the required open procedure. After treating Patient 1, Respondent allowed her to return to her hotel room. He did not measure her compartment pressures or perform an open procedure until the following day.

27. Respondent's acts and/or omissions as set forth in paragraphs 8 through 20, and 24 through 26, above, whether proven individually, jointly, or in any combination thereof, constitute gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

28. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he engaged in repeated acts of negligence in the care and treatment of Patient 1. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 27, above, as though fully set forth herein. The circumstances are as follows:

29. Respondent failed to timely recognize that Patient 1 was suffering from compartment syndrome. Respondent was notified while the patient was in the PACU on September 20, 2016, that she had numbness of her left foot and an inability to move her feet and toes. Respondent incorrectly attributed the numbness to the "residual lidocaine" within the grafted fat from the tumescent solution injected approximately 8 hours earlier. By the time the patient arrived in the PACU, there should have been no local anesthetic effect of lidocaine on her feet.

30. Respondent failed to treat Patient 1's compartment syndrome in a timely manner. On September 21, 2016, postoperative day number 1, Respondent recognized signs of compartment syndrome in the patient's legs. At that time, Respondent should have initiated definitive treatment with open fasciotomies or sent Patient 1 to the emergency department for treatment. Instead, Respondent, who was otherwise occupied, left the operating room during a surgical procedure, examined Patient 1 in the PACU and performed bedside decompression on Patient 1 in the PACU. He then returned to the operating room to finish the surgery on the other patient. Thereafter, Respondent took Patient 1 to the operating room at which time he performed a small incision release of the anterior compartment of each leg, opening the capsules blindly using a pickle fork rather than the required open procedure. After treating Patient 1, Respondent allowed her to return to her hotel room. He did not measure her compartment pressures or perform an open procedure until the following day.

31. Respondent failed recognize the appropriate endpoint to avoid causing vascular, neurological, or muscular compromise and failed to measure the compartment pressure when he injected fat intramuscularly in Patient 1's calves on September 20, 2016.

32. Respondent failed to adequately document the care he provided to Patient 1 as well as the discussions, instructions and recommendations he claims he gave to the patient and her private nurse regarding further care.

33. Respondent's acts and/or omissions as set forth in paragraphs 8 through 32, above, whether proven individually, jointly, or in any combination thereof, constitute repeated acts of negligence pursuant to section 2234, subdivision (c), of the Code. Therefore cause for discipline exists.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

34. Respondent's license is subject to disciplinary action under section 2266 of the Code in that he failed to maintain adequate and accurate records concerning the care and treatment of Patient 1. Complainant refers to and, by this reference, incorporates Paragraphs 8 through 18, 23, and 32, above, as though set forth fully herein.

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 86603, issued to Leif Liu Rogers, M.D.;

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: JAN 20 2021

For: WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

REJI VARGHESE
DEPUTY DIRECTOR

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