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

In the Matter of the First Amended Accusation Against: **Anthony T. Nasser, M.D.** **Physician's and Surgeon's Certificate No. A 113112** **Respondent.**	**Case No.: 800-2019-055460**

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 18, 2022.

IT IS SO ORDERED: February 16, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
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ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
JOSEPH F. MCKENNA III
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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 First Amended Accusation Against: **ANTHONY T. NASSER, M.D.** **355 Placentia Avenue, Suite 205** **Newport Beach, California 92663-3302** **Physician's and Surgeon's Certificate No. A 113112,** Respondent.	Case No. 800-2019-055460 OAH No. 2021060338 **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, and by Joseph F. McKenna III, Deputy Attorney General.

2. Respondent Anthony T. Nasser, M.D. (Respondent) is represented in this proceeding by attorneys Peter R. Osinoff, Esq., and Derek F. O'Reilly-Jones, Esq., whose address is: 355 South Grand Avenue, Suite 1750, Los Angeles, California, 90071-1562.

3. On or about July 2, 2010, the Board issued Physician's and Surgeon's Certificate No. A 113112 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2019-055460, and will expire on October 31, 2023, unless renewed.

JURISDICTION

4. On January 28, 2021, Accusation No. 800-2019-055460 was filed against Respondent before the Board. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on January 28, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. On December 30, 2021, First Amended Accusation No. 800-2019-055460 was filed before the Board, and is currently pending against Respondent. A true and correct copy of the First Amended Accusation and all other statutorily required documents were properly served on Respondent on December 30, 2021. A true and correct copy of the First Amended Accusation is attached hereto as Exhibit A and hereby incorporated by reference as if fully set forth herein

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, discussed with his counsel, and fully understands the charges and allegations in First Amended Accusation No. 800-2019-055460. Respondent has also carefully read, discussed with his counsel, and fully 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 First Amended 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, having been fully advised of the above legal rights by his counsel.

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 First Amended Accusation No. 800-2019-055460, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 113112 to disciplinary action.

10. 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 Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 800-2019-055460 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 further agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in

this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

14. 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.

15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 113112 issued to Respondent Anthony T. Nasser, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years from the effective date of the Decision on the following terms and conditions:

1. 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 First Amended 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 fifteen (15) calendar days after the effective date of the Decision, whichever is later.

2. PROFESSIONALISM PROGRAM (ETHICS COURSE).

Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program that meets the requirements of Title 16, Cal. Code of Reg., section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the First Amended 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 program would have been approved by the Board or its designee had the program 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 program or not later than fifteen (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 (6) 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, the Decision and Disciplinary Order, the First Amended Accusation, 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 and Disciplinary Order, the First Amended Accusation, and a proposed monitoring plan. Within fifteen (15) calendar days of receipt of the Decision and Disciplinary Order, the First Amended Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and Disciplinary Order and First Amended Accusation, 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.

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Within sixty (60) calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's medical practice at his own offices 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 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. 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 all of the monitor's quarterly written reports during the first twenty-four (24) months of probation indicate that Respondent's practices are within the standards of practice of medicine and Respondent is practicing medicine safely, the practice monitor condition shall automatically terminate under this Disciplinary Order after twenty-four (24) months from the effective date of this Decision.

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

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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. PROHIBITED PRACTICE.

During probation, Respondent is prohibited from performing any and all cosmetic and/or aesthetic surgical procedures of any kind, on any patient, at any location. Respondent may continue to perform cosmetic dermatology procedures (which includes Botox, fillers, and laser skin and hair procedures). After the effective date of this Decision, Respondent shall notify all patients requesting any other cosmetic and/or aesthetic surgical procedure or service of any kind from Respondent that he is prohibited from performing any and all cosmetic and/or aesthetic surgical procedures of any kind, on any patient, at any location. Any new patients requesting any cosmetic and/or aesthetic surgical procedure or service of any kind from Respondent that he is prohibited from performing must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

6. NOTIFICATION.

Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and First Amended 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 fifteen (15) calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES.

During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

8. 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.

9. INVESTIGATION/ENFORCEMENT COST RECOVERY.

Respondent is hereby ordered to reimburse the Board its costs of enforcement, including legal review and expert review, as applicable, in the amount of $1,760 (one thousand seven hundred sixty dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by respondent to the Board.

The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay investigation and enforcement costs, including expert review costs (if applicable).

10. QUARTERLY DECLARATIONS.

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

11. 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.

12. 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.

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13. 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 thirty (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.

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14. COMPLETION OF PROBATION.

Respondent shall comply with all financial obligations (e.g., 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.

15. 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.

16. 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 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 fifteen (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.

17. 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.

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18. 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 First Amended Accusation No. 800-2019-055460 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff, Esq. 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: 1/6/22

ANTHONY T. NASSER, M.D.
Respondent

I have read and fully discussed with Respondent Anthony T. Nasser, 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: 1/6/2022

PETER R. OSINOFF, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: January 7, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

JOSEPH F. MCKENNA III
Deputy Attorney General
Attorneys for Complainant

SD2020800660 / Doc.No.83174730

Exhibit A

First Amended Accusation No. 800-2019-055460

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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 First Amended Accusation Against: **ANTHONY T. NASSER, M.D.** **355 Placentia Avenue, Suite 205** **Newport Beach, CA 92663-3302** **Physician's and Surgeon's Certificate No. A 113112,** Respondent.	Case No. 800-2019-055460 OAH No. 2021060338 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended 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 July 2, 2010, the Board issued Physician's and Surgeon's Certificate No. A 113112 to Anthony T. Nasser, 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 October 31, 2023, unless renewed.

JURISDICTION

3. This First Amended Accusation which supersedes Accusation No. 800-2019-055460, filed on January 28, 2021, in the above-entitled matter, 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, in pertinent part:

> (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.
>
> ...

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:
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> ...
>
> (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.
>
> ...
>
> (d) Incompetence.
>
> ...

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.

COST RECOVERY

7. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

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(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. A 113112 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:

9. Respondent is board certified in Family Medicine. Since approximately 2013, he has owned and operated Renew Laser Medical Center clinics in Fullerton and Newport Beach, performing laser hair removal, Botox, and fillers. Between on or about January 22 and 23, 2015, Respondent attended a two-day workshop where he learned to perform the Smartlipo[2] technique. Later that year, Respondent began to perform Smartlipo at his Newport Beach clinic.

10. On or about September 5, 2017, Patient A, a then thirty-three year old female, presented to Respondent requesting lip filler. At that visit, Respondent injected one syringe of Juvederm[3] into the patient's lips. At that visit, the patient inquired about liposuction and Respondent explained the risks and benefits of the Smartlipo procedure. The patient's chart for

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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.

[2] Smartlipo is a medical device designed to perform laser-assisted liposuction. During this procedure, a thin tube containing the Smartlipo laser fiber is inserted in targeted fatty areas through a small incision. The laser fiber delivers thermal energy directly to fat cells, melting the fat, which is then removed with suction.

[3] Juvederm is an injectable filler composed of largely hyaluronic acid. It is used to soften deep folds and reduce wrinkles in the faces of patients. Juvederm is a dangerous drug pursuant to Business and Professions Code section 4022, and can only be dispensed upon a prescription.

this visit does not contain the product sticker with the lot number for the Juvederm and does not reference any discussion with the patient regarding a liposuction consultation.

11. Between on or about September 5, 2017, and on or about December 2, 2017, Patient A corresponded with Respondent and his staff to schedule her liposuction procedure. Sometime during that timeframe, Patient A was seen at the clinic and paid approximately $1,500.00 towards the negotiated price of $3,000.00 for the procedure, was measured for a post-surgical compression garment, and was provided with pre-operative instructions and prescriptions for antibiotics and pain medication. The patient's chart contains no scheduled or cancelled visits during that timeframe, no documented discussion regarding the risks and benefits of the procedure, no correspondence with Respondent or his staff, and no reference to payment, pre-operative measurements, instructions, or prescriptions provided.

12. Between on or about October 17, 2017, and on or about October 19, 2018, Patient A frequently corresponded with Respondent and his staff by text message regarding her medical care and treatment. On numerous occasions, Patient A was instructed to send photographs of her abdomen and compression garment by text message. The patient's chart does not contain any of these text messages or photographs.

13. On or about December 2, 2017, Patient A presented to Respondent for liposuction to remove 2.5 liters of fat in the anterior fat pockets of her abdomen between her love handles. At that time, the patient weighed approximately 148 pounds. Prior to the procedure, Respondent performed a brief history and physical examination, and took two pre-operative photographs of the patient. The patient's chart does not contain a signed consent form for the procedure or for taking photographs of the patient.

14. Prior to commencement of the procedure, the patient was placed in a supine position on the operative table with minimal sterile draping, and an IV catheter was placed into her unsterile arm. Respondent prepared a tumescent fluid that, according to the operative note, contained saline, epinephrine, bicarbonate, and 2% lidocaine. Respondent then injected 3 liters of tumescent fluid into the patient's abdomen and commenced with the liposuction procedure. During the procedure, Respondent wore a surgical gown with no mask or head covering, and a

nurse in plain clothes stood at the patient's head and fed her french fries. At the conclusion of the approximate four-hour procedure, Respondent had removed 3.4 liters of fat solute from the patient's abdomen.

15. One hour after the procedure, Respondent took two post-operative photographs of the patient. The patient was given instructions to return for a follow-up in one week or as needed, and released from the clinic. The operative note in the patient's chart was not electronically signed by Respondent until on or about October 24, 2018.

16. On or about December 4, 2017, Patient A was seen by Respondent for a postoperative visit with complaints of pain and drainage. The patient reported being compliant with her compression garment. Upon physical examination, the incision site appeared to be healing well and there was no evidence of cellulitis. The patient had developed seromas[4] in an undocumented location, from which Respondent drained approximately 70 cubic centimeters of liquid. At the conclusion of the visit, the patient was instructed to return to the clinic in two to four days or as needed.

17. On or about December 6, 2017, Patient A requested to be seen right away due to pain and an inability to walk as a result of fluid build-up. Later that day, Patient A was seen by Respondent's nurse. Respondent was not present at the time of this visit, but spoke with the patient over FaceTime. At Respondent's direction, the nurse drained approximately 80 cubic centimeters of liquid from the patient. The patient's chart makes no reference to Respondent meeting with the patient via FaceTime and was not electronically signed by Respondent until on or about October 24, 2018.

18. On or about December 12, 2017, Patient A informed Respondent's staff that she was in a lot of pain and has to drain fluid every day and night.

19. On or about December 19, 2017, Patient A was seen by Respondent for a postoperative visit. The patient reported being compliant with her compression garment, and informed Respondent that she had been using a needle to drain herself in the pelvic area. Upon

[4] A seroma is a pocket of fluid that sometimes develops in the body after surgery. This fluid is composed of blood plasma that has seeped out of ruptured small blood vessels and the inflammatory fluid produced by injured and dying cells.

physical examination, pelvic seromas were noted, as well as a small area of dermatitis on the patient's left flank that Respondent believed was due to the patient scratching. At that visit, Respondent drained approximately 90 cubic centimeters of liquid from the patient's pelvic region, advised the patient to utilize polysporin on her left flank to prevent scarring, and instructed her to return to the clinic in two to four days or as needed.

20. On or about December 23, 2017, Patient A was seen by Respondent for a postoperative visit, during which the patient reported being compliant with her compression garment. Upon physical examination, pelvic seromas were noted, as well as a small area of dermatitis on the patient's left flank that Respondent believed was due to the patient scratching. At that visit, Respondent drained approximately 50 cubic centimeters of liquid from the patient's pelvic region, advised the patient to utilize polysporin on her left flank to prevent scarring, and instructed her to return to the clinic in two to four days or as needed.

21. On or about January 5, 2018, Patient A informed Respondent's staff that she was concerned about healing and scarring, and inquired about when the discoloration would go away.

22. On or about October 11, 2018, Patient A was seen by plastic and reconstructive surgeon, T.T., M.D. (Dr. T.T.), with complaints of a scar on her left flank, discoloration, firmness, and pain in her abdomen. Upon physical examination, Dr. T.T. noted a band of discoloration from the patient's flank to pubic area that was fibrotic and firmer than the rest of her abdomen. He also noted a burn scar on the left flank and unevenness of her abdomen. Dr. T.T. advised Patient A that the discoloration was permanent and there was little he could do for the burn scars on her left flank other than excision and transposition flap reconstruction.

23. On or about October 23, 2018, Patient A requested her complete medical records from Respondent.

24. On or about May 4, 2019, Patient A was seen by Respondent for a follow-up visit. The patient reported she was unable to attend additional postoperative visits because she was living in New York. Patient A informed Respondent that she was unhappy with the results of her liposuction, and complained of pain, unevenness, and discoloration of her skin. Respondent informed Patient A that the hyperpigmentation was possibly due to post-inflammatory

hyperpigmentation, and advised her of her treatment options but declined to perform any additional liposuction on the patient.

25. On or about June 23, 2020, Respondent participated in a subject interview with an investigator for the Board. During the interview, Respondent indicated that Smartlipo is a semi-sterile procedure, during which his staff wears scrubs, and he is gowned but does not always wear a mask. Although he does not document urination, he stated that he allows his patients to get up to use the bathroom in the middle of their procedure, as necessary. Respondent further indicated that seromas are very common, occurring in approximately 15-20% of patients, particularly those who are not compliant with their compression garment. Respondent further indicated that he was not concerned about Patient A's seromas, that a burn cannot cause post-inflammatory hyperpigmentation, and that there was never any evidence of a burn on this patient at any time.

26. Respondent committed gross negligence in his care and treatment of Patient A, which included, but was not limited to, the following:

A. Failing to use a sterile technique during the patient's liposuction procedure;

B. Providing food to the patient during the liposuction procedure; and

C. Over-resecting fatty tissue on the patient during the liposuction procedure, resulting in poor outcome and permanent disfigurement.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

27. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 113112 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged hereinafter:

A. Paragraphs 7 through 26 (C), above, are hereby incorporated by reference and realleged as if fully set forth herein;

B. Failing to complete a contemporaneous note documenting his liposuction consultation with the patient;

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C. Failing to document an informed consent discussion with the patient regarding the liposuction procedure;

D. Failing to obtain a signed consent form from the patient prior to performing the liposuction procedure;

E. Failing to obtain a signed consent form from the patient prior to taking pre-operative and post-operative photographs of the patient;

F. Failing to place the product sticker in the patient's chart after injecting the patient with hyaluronic acid filler;

G. Failing to timely sign the December 2, 2017, operative report;

H. Failing to timely sign the December 6, 2017, clinical note;

I. Failing to accurately document the contents of the tumescent solution injected into the patient during the liposuction procedure;

J. Creating a burn wound on the patient's left waistline during the liposuction procedure;

K. Failing to recognize a burn on the patient's left waistline; and

L. Failing to recognize the patient's hyperpigmentation was a result of subdermal injury.

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

28. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 113112 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (d), of the Code, in that he has demonstrated incompetence in his care and treatment of Patient A, as more particularly alleged hereinafter:

A. Paragraphs 7 through 27 (L), above, are hereby incorporated by reference and realleged as if fully set forth herein;

B. Failing to use a sterile technique during Patient A's liposuction procedure;

C. Failing to recognize a burn on Patient A's left waistline; and

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D. Failing to recognize Patient A's hyperpigmentation was a result of subdermal injury.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

29. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 113112 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A, as more particularly alleged in paragraphs 7 through 28, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

DISCIPLINARY CONSIDERATIONS

30. To determine the degree of discipline, if any, to be imposed on Respondent, Anthony T. Nasser, M.D., Complainant alleges that on or about September 9, 2020, in a prior disciplinary action entitled, In the Matter of the Accusation Against Anthony T. Nasser, M.D., before the Medical Board of California, in Case No. 800-2016-024117, Respondent's license was publicly reprimanded for committing negligence in his care and treatment of a single patient. That decision 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 No. A 113112, issued to Respondent, Anthony T. Nasser, M.D.;

2. Revoking, suspending, or denying approval of Respondent, Anthony T. Nasser, M.D.'s authority to supervise physician assistants pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent, Anthony T. Nasser, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; an

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

DATED: DEC 30 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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