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

In the Matter of the Accusation Against: Atef Labib Yacoub, M.D. Physician's & Surgeon's Certificate No. A 40189 Respondent.	Case No. 800-2018-051257

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 July 8, 2022.

IT IS SO ORDERED: June 9, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
LATRICE R. HEMPHILL
Deputy Attorney General
State Bar No. 285973
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 800-2018-051257
ATEF LABIB YACOUB, M.D. **120 - 124 S. Montebello Blvd.** **Montebello, CA 90640**	OAH No. 2021070927
Physician's and Surgeon's Certificate No. A 40189,	**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**
Respondent.	

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 Latrice R. Hemphill, Deputy Attorney General.

2. Respondent Atef Labib Yacoub, M.D. (Respondent) is represented in this proceeding by attorney Gary Wittenberg, Esq., whose address is: 1901 Avenue of the Stars, Suite 1750 Los Angeles, CA 90067.

3. On or about July 18, 1983, the Board issued Physician's and Surgeon's Certificate No. A 40189 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-051257, and will expire on June 30, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-051257 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 June 10, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-051257 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. 800-2018-051257. 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.

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CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2018-051257, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima facie case for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

1. PUBLIC REPRIMAND. IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 40189 issued to Respondent Atef Yacoub, M.D. is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand is issued in connection with Respondent's use of fluoroscopy without the required permit.

2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) 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 (CME) requirements for renewal of licensure.

A professionalism program 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 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 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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3. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $880.00. 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.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gary Wittenberg, 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: 02/04/2022

ATEF LABIB YACOUB, M.D.
Respondent

I have read and fully discussed with Respondent Atef Labib Yacoub, 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: 2-7-22

GARY WITTENBERG, ESQ.
Attorney for Respondent

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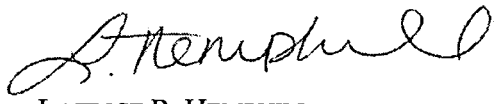
ENDORSEMENT

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

DATED: 2/7/2022

Respectfully submitted,

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



LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-051257

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

In the Matter of the Accusation Against:	Case No. 800-2018-051257
Atef Labib Yacoub, M.D. **120 - 124 S. Montebello Blvd.** **Montebello, CA 90640** **Physician's and Surgeon's Certificate** **No. A 40189,** Respondent.	**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 July 18, 1983, the Medical Board issued Physician's and Surgeon's Certificate Number A 40189 to Atef Labib Yacoub, 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 June 30, 2023, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code 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.

5. 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.

DEFINITIONS

6. Fluoroscopy is a type of medical imaging that enables a physician to look at many body systems by using a continuous x-ray beam, which is passed through the body part being examined. The image is transmitted to a monitor so the movement of a body part or of an instrument can be seen in detail.

7. Lithotripsy is a procedure that uses shock waves to break up stones in the kidney and parts of the ureter.

FACTUAL ALLEGATIONS

8. In 2018, Respondent served as a urologist and medical director at Yacoub Medical, Inc., located at 120 South Montebello Boulevard, Montebello, California 90640. Respondent also had hospital privileges at several local hospitals, including Foothill Regional Medical Center (Foothill), located at 14662 Newport Avenue, Tustin, California 92780, and United Medical Systems (United), located at 502 Apollo Street, Brea, California 92821.

9. On or about August 16, 2018, the California Department of Public Health, Radiologic Health Branch (CDPH-RHB) conducted a routine radiation safety inspection at Foothill. During the course of the inspection, the Director of Imaging at Foothill indicated that the facility had one physician who used the fluoroscopy during procedures without having the required permit.

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10. According to the Director of Imaging, once the facility became aware of Respondent's unauthorized use, they made Foothill staff aware that they were to not allow Respondent to use the fluoroscope. It was determined that Respondent scheduled procedures in the evening and after-hours without reserving a fluoroscope. On the dates of the procedures, Respondent would indicate that the fluoroscope use was emergently necessary and he was able to bypass Foothill's usual procedures for scheduling and verifying credentials for fluoroscopy use. The Director of Imaging indicated that Foothill made requests to Respondent, asking for a copy of the required permit, but had not received anything, at the time of the inspection.

11. The CDPH-RHB inspector reviewed Foothill's fluoroscopy log books and found that Respondent used fluoroscopy on December 27, 2016; May 19, 2018; May 25, 2018; and June 6, 2018. The CDPH-RHB determined that Respondent had been performing fluoroscopy procedures without the required Fluoroscopy Supervisor and Operator permit.

12. The CDPH-RHB inspector issued Respondent a Notice of Violation and Radiation User's Declaration (NOVRUD), citing Health and Safety Code section 107110, performing fluoroscopy without proper certification.

13. On or about September 24, 2018, the CDPH-RHB conducted a radiation safety inspection at United. The CDPH-RHB inspector reviewed United's records and found eleven cases in which Respondent supervised or directed fluoroscopy during lithotripsy procedures, from February 2016 through the date of the inspection.

14. The inspector issued Respondent a second NOVRUD.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

15. Respondent Atef Labib Yacoub, M.D. is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he engaged in repeated acts of negligence. Complainant refers to and, by this reference, incorporates herein, paragraphs 8 through 14, above, as though fully set forth herein. The circumstances are as follows:

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16. The standard of care for a physician performing a procedure in California, where fluoroscopy is utilized, is to have a valid California fluoroscopy license or to have a physician in the room supervising the procedure, who has such a valid license.

17. Respondent did not have a valid fluoroscopy license during multiple procedures where he used fluoroscopy. Further, no physician was present, during any of the aforementioned procedures, who had a valid fluoroscopy license. Each of Respondent's unauthorized uses of the fluoroscope constitutes a simple departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Dishonesty)

18. Respondent Atef Labib Yacoub, M.D. is subject to disciplinary action under section 2234, subdivision (e), of the Code in that he engaged in an act of dishonesty, which is substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

19. On or about August 20, 2020, Respondent was interviewed by a Board investigator regarding his unauthorized use of the fluoroscopy. During the interview, Respondent stated that in two or three of the occasions at Foothill, noted by the CDPH-RHB, he used the regular x-ray and not fluoroscopy.

20. Respondent also indicated that an anesthesiologist or radiologist was always in the room during his fluoroscopy use. Further, Respondent stated that prior to obtaining his license for fluoroscopy, he used the static x-ray machine and not fluoroscopy.

21. Respondent breached the ethical code of the medical profession and displayed conduct which is unbecoming to a member in good standing of the medical profession. Respondent claimed that he always had supervision, by a practitioner who held a valid fluoroscopy license, when he used fluoroscopy. However, the CDPH-RHB noted multiple occasions where that is not true. Moreover, most of the practitioners that Respondent indicated supervised him during the procedures, did not in fact hold fluoroscopy licenses themselves.

22. Additionally, Respondent stated that he never used fluoroscopy without a valid license but the CDPH-RHB noted multiple occasions where Respondent did use fluoroscopy.

23. Respondent's misrepresentations and mischaracterizations constitute repeated acts of dishonesty.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

24. Respondent Atef Labib Yacoub, M.D. is subject to disciplinary action under section 2234, subdivision (a), of the Code in that Respondent engaged in unprofessional conduct. The circumstances are as follows:

25. The allegations of the First and Second Causes for Discipline, in paragraphs 15 through 23, above, are incorporated herein by reference as if fully set forth.

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 40189, issued to Atef Labib Yacoub, M.D.;

2. Revoking, suspending or denying approval of Atef Labib Yacoub, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Atef Labib Yacoub, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: JUN 10 2021

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

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