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

In the Matter of the First Amended Accusation Against: **Simmi P. Dhaliwal, M.D.** **Physician's and Surgeon's Certificate No. A 63694** **Respondent.**	**Case No.: 800-2020-067356**

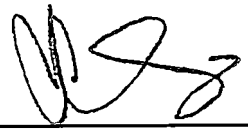
DECISION

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 28, 2022.

IT IS SO ORDERED: August 29, 2022.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D., Chair
Panel A

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

In the Matter of the First Amended Accusation Against: SIMMI P. DHALIWAL, M.D. 160 East Artesia Street, Suite 330 Pomona, CA 91767 Physician's and Surgeon's Certificate No. A 63694, Respondent.	Case No. 800-2020-067356 OAH No. 2021080359 **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. Simmi P. Dhaliwal, M.D. (Respondent) is represented in this proceeding by attorney Peter R. Osinoff, whose address is 355 South Grand Avenue, Suite 1750, Los Angeles, California 90071-1562.

3. On or about October 17, 1997, the Board issued Physician's and Surgeon's Certificate No. A 63694 to Respondent. That license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2020-067356, and will expire on August 31, 2023, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2020-067356 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 July 14, 2021. Respondent timely filed her Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2020-067356 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 First Amended Accusation No. 800-2020-067356. Respondent has also carefully read, fully discussed with her counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her 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 her; the right to present evidence and to testify on her 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 First Amended Accusation No. 800-2020-067356, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in First Amended Accusation No. 800-2020-067356, a true and correct copy of which is attached hereto as Exhibit A, and that she has thereby subjected her Physician's and Surgeon's Certificate, No. A 63694 to disciplinary action.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms 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 her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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. Respondent agrees that if she ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against her before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2020-067356 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.

14. 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.

15. 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 63694 issued to Respondent SIMMI P. DHALIWAL, M.D. is revoked. However, the revocations are stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. 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.

2. 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 fifteen (15) calendar days.

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

3. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

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4. 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.

5. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $4,115.00 (Four Thousand One Hundred Fifteen Dollars and No Cents). 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 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.

13. 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.

14. PETITION FOR MODIFICATION OF PENALTY. Respondent is permitted to petition for early termination of probation pursuant to Business and Professions Code section 2221, subdivision (b), after one (1) year of probation and following the successful completion of the Clinical Competency Assessment Program.

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 First Amended Accusation No. 800-2020-067356 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, Peter R. Osinoff. 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: 3/18/22

SIMMI P. DHALIWAL, M.D.
Respondent

I have read and fully discussed with Respondent Simmi P. Dhaliwal, 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: 3/21/22

PETER R. OSINOFF
Attorney for Respondent

ENDORSEMENT

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

DATED: 3/23/22

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

First Amended Accusation No. 800-2020-067356

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

In the Matter of the First Amended Accusation Against: **SIMMI P. DHALIWAL, M.D.** **160 East Artesia Street, Suite 330** **Pomona, CA 91767** **Physician's and Surgeon's Certificate No. A 63694,** Respondent.	Case No. 800-2020-067356 **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 October 17, 1997, the Board issued Physician's and Surgeon's Certificate Number A 63694 to Simmi P. Dhaliwal, 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, 2023, unless renewed.

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JURISDICTION

3. This First Amended 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 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.

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(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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COST RECOVERY

8. Business and Professions Code section 125.3 states that:

(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.

(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.

FACTUAL ALLEGATIONS

9. At 11:26 p.m. on September 30, 2016, Patient 1,[1] a then 21-year-old gravida 1 para 0, presented to the labor and delivery department at Pomona Valley Hospital Medical Center (hospital) at 37 6/7 weeks' gestation complaining of a lack of fetal movement since approximately 8:00 p.m. She was receiving prenatal care by Dr. S.C. at Femcare Medical Group and had an estimated date of confinement of October 16, 2016.

10. Patient 1 was seen in triage and placed on a fetal heart monitor. Nurse A.S. noted that the patient had normal vital signs with a blood pressure of 127/75. Nurse A.S. further documented that the fetal monitor strip showed minimal variability with decelerations.

11. Fetal monitoring is used to assess fetal status and predict fetal well-being. Fetal heart monitor tracings fall into three categories and plans of action are based on the tracing category. A Category 1 tracing suggests a well-oxygenated fetus with excellent reserve and a normal acid base status. A Category 3 tracing suggests an abnormal acid base status or acidemia. A Category 2 tracing is considered indeterminate. Category 2 and 3 tracings should undergo intrauterine resuscitation such as maternal position changes with lateral positions of the mother as well as IV fluid and oxygen administration. Expedited delivery is recommended when there is a Category 3 tracing or a Category 2 tracing with minimal variability and late decelerations that persist despite intrauterine resuscitation.

12. Patient 1's fetal heart tracing at 11:26 p.m. reflected minimal variability with late decelerations. It was a Category 2 tracing with areas of Category 3 tracing with absent variability.

13. A vaginal examination was performed at 11:49 p.m. Patient 1 was at minus 3 station with a closed cervix. An ultrasound performed at the patient's bedside confirmed vertex presentation of the fetus.

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[1] The Patient is identified herein by number for privacy concerns.

14. Respondent was the on-call obstetrician and gynecologist for Femcare Medical Group. Physicians taking call assume responsibility of the patients presenting with obstetrical and gynecological emergencies.

15. The nursing staff contacted Respondent regarding Patient 1's status at 12:11 a.m. Respondent ordered IV hydration, a position change, oxygen and a Biophysical Profile (BPP).[2] Respondent, as the on-call obstetrician for her group practice, was fully responsible for the care and management of Patient 1.

16. Nurse A.S. documented a BPP of 4 and amniotic fluid index (AFI) of 7[3] at 12:29 a.m. and reported the findings to Respondent at 12:35 a.m.[4] Respondent ordered a repeat BPP to be performed at 8:00 a.m. and that she be notified of any worsening of the fetal tracing.

17. At 1:08 a.m., Nurse R.B. noted that the patient had episodic variable decelerations and prolonged decelerations. Nurse R.B. assessed the fetal heart rate tracing as Category 2 and non-reactive.

18. Patient 1's fetal heart rate tracing at 1:08 a.m. reflects a Category 2 and Category 3 tracing with minimal to absent variability and variable and late decelerations.

19. Nurse R.B. documented calling Respondent at 1:31 a.m. to report results of the vaginal examination, fetal heart tones, uterine contractions, minimal variability, nursing interventions and that the patient stated that she had not felt the baby move since 8:00 p.m. on September 30th.[5] Respondent gave orders to admit the patient and start induction with Cytotec.

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[2] BPP is used to evaluate fetal well-being. The test combines an ultrasound examination with a nonstress test and ultrasound to evaluate fetus heart rate, breathing, movements, muscle tone and amniotic fluid level. The nonstress test and ultrasound measurements are then each given a score based on whether certain criteria are met. A total score of 10 points or eight out of 10 points with normal amniotic fluid volume is considered normal. A score of less than eight may suggest that the fetus is not receiving enough oxygen (fetal asphyxia). If the biophysical profile yields a score of four or less, delivery should be induced. Overall, a low score indicates a greater risk of stillbirths and fetal asphyxia.

[3] A normal amniotic fluid index is 5 cm to 25 cm using the standard assessment method.

[4] This was the nursing staff's second telephone call to Respondent following Patient 1's arrival to the hospital's labor and delivery department.

[5] This was the nursing staff's third telephone call to Respondent following Patient 1's arrival to the hospital's labor and delivery department.

20. At 1:58 a.m., Nurse R.B. documented calling Respondent to report decelerations, continued minimal variability despite nursing interventions and that the patient stated that she still has not felt the baby move.[6] At that time, Nurse R.B. also notified Respondent that the hospital induction policy does not permit the administration of Cytotec in a patient with a Category 2 fetal heart rate tracing. Respondent gave orders for a STAT obstetrical ultrasound with biophysical profile. Nurse R.B. further documented that she requested that Respondent review the fetal heart rate tracing and that Respondent stated that she would pull up the fetal strip at home. Respondent did not document that she reviewed the fetal heart rate tracing.

21. The fetal heart rate monitoring from approximately 2:00 a.m. until 3:30 a.m. reflected a Category 2 and primarily, a Category 3 tracing with minimal to absent variability and late decelerations.

22. The obstetrical ultrasound was performed at 2:46 a.m. and revealed a single intrauterine fetus at an estimated gestational age of 35 weeks, 1 day with an estimated weight of 2319 grams (less than 3rd percentile for gestational age). At 2:50 a.m., the AFI was 4.6 and BPP was 4.

23. At 3:10 a.m., Nurse R.B. notified Respondent of the ultrasound results, the BPP of 4 and that the patient stated that she still does not feel the baby move.[7] Respondent gave orders to prepare the patient for a cesarean section. At Respondent's request, her phone call was then transferred to the operating room.

24. Respondent testified at deposition that she called the hospital about the availability of the hospital's one labor and delivery operating room and was told that it would be busy for about 30 to 45 minutes.[8] There is no documentation in Patient 1's records reflecting that an operating room was unavailable.

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[6] This was the nursing staff's fourth telephone call to Respondent following Patient 1's arrival to the hospital's labor and delivery department.

[7] This was the nursing staff's fifth telephone call to Respondent following Patient 1's arrival to the hospital's labor and delivery department.

[8] Hospital risk management has indicated that the hospital had at least two operating rooms available for obstetrical emergencies as well as additional operating rooms within the main surgical area

25. The fetal heat rate tracing from 2:45 a.m. until 3:30 a.m., reflected a primary category 3 tracing with late decelerations.

26. Nurse R.B. documented that Patient 1 was being transferred to the operating room at 3:35 a.m. and that the fetal heart tracing reflected episodic variable decelerations and was assessed as Category 2, non-reactive.

27. The Intraoperative Record reflects that the patient was undergoing a cesarean section for a non-reassuring Category 2 fetal tracing. Other indications for the procedure were oligohydramnios and intrauterine growth restriction (IUGR).

28. Respondent failed to document when she arrived at the hospital. In a progress note, Respondent documented that she began to scrub for the procedure at 4:16 a.m.

29. Anesthesia for the cesarean section started at 3:49 a.m., a skin incision was performed at 4:20 a.m., and the male infant was delivered at 4:23 a.m. He was limp and pale upon delivery, not responding to stimulation. APGARs were 3, 4 and 6 at one, five and ten minutes, respectively.[9] The infant was intubated at 7 minutes of life at which time meconium was found on the vocal cords. He was transferred to the neonatal intensive care unit (NICU) for respiratory distress. The cord gases taken at the time of delivery showed acidosis. The fetal aspect of the placenta revealed mid infarction with edema and hemorrhage suggestive of possible chronic placental hypoxia. Diagnostic tests and examination were consistent with hypoxic-ischemic encephalopathy (HIE). In the NICU, he was treated for HIE with associated seizures. The infant remained in the NICU for approximately 28 days before being discharged home. Long-term prognosis was noted to be guarded.

30. Patient 1 was discharged approximately 5 days following the caesarean section. During her hospitalization, she was seen by cardiology for persistent tachycardia following

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available for use in the case of an emergency such as an emergency cesarean section.

[9] APGAR is a quick, overall assessment of newborn wellbeing used immediately following the delivery of a baby measuring the baby's color, heart rate, reflexes, muscle tone and respiratory effort. Each category is scored with 0, 1, or 2, depending on the observed condition. The Apgar score is based on a total score of 1 to 10. The higher the score, the better the baby is doing after birth. A score of 7, 8, or 9 is normal and is a sign that the newborn is in good health. Any score lower than 7 is a sign that the baby needs medical attention.

delivery which was thought to be attributed to the significant stress, anxiety, and worry she had regarding the health of her baby. Upon discharge, Patient 1 was instructed to follow up with her primary care physician for monitoring of her vital signs and a follow up electrocardiogram.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

31. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that she committed gross negligence in her care and treatment of Patient 1. The circumstances are as follows:

32. Complainant refers to and, by this reference, incorporates herein, paragraphs 9 through 30, above, as though fully set forth herein.

33. The standard of care requires that obstetricians actively manage obstetrical patients by going to the hospital to make a first-hand assessment.

34. Despite the multiple reports from nursing regarding the status of Patient 1's fetus, Respondent failed to personally evaluate and assess Patient 1. This is an extreme departure from the standard of care.

35. Decreased or absent fetal movement may be associated with increased risk of stillbirth or fetal compromise. The standard of care requires that an obstetrician recognize that a pregnant patient presenting with absent or decreased fetal movement is at high-risk for fetal compromise, requiring assessment of that patient by the physician.

36. Respondent failed to recognize that the BPP of 4 out of 10 correlated with the non-reassuring fetal status on the fetal heart rate tracing. Respondent's failure to recognize the high-risk situation for fetal compromise and failure to recognize the non-reassuring fetal status is an extreme departure from the standard of care.

37. When there is no improvement in a non-reassuring fetal heart rate tracing, such as a Category 2 or 3 tracing, the fetus should be delivered. When there is a persistent, non-reassuring tracing, the standard of care requires an expedited delivery, generally within 30 minutes from the decision to deliver to the time of incision.

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38. Respondent gave orders to prepare Patient 1 for a cesarean section at 3:10 a.m. and began the procedure at 4:20 a.m., delivering the infant at 4:23 a.m. Respondent's failure to expedite the delivery of Patient 1's fetus, despite the lack of improvement in a non-reassuring fetal heart rate tracing, is an extreme departure from the standard of care.

39. Respondent's acts and/or omissions as set forth in paragraphs 9 through 38, 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)

40. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that she was negligent in the care and treatment of Patient 1. Complainant refers to and, by this reference, incorporates herein, paragraphs 9 through 39, above, as though fully set forth herein.

41. Respondent's acts and/or omissions as set forth in paragraphs 9 through 39, 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

(Incompetence)

42. Respondent is subject to disciplinary action under section 2234, subdivision (d), of the Code, in that she was incompetent in the management of the non-reassuring status and probable acidemia of Patient 1's fetus. Complainant refers to and, by this reference, incorporates herein, paragraphs 9 through 41, above, as though fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

43. Respondent is subject to disciplinary action under section 2266 of the Code in that she failed to maintain adequate and accurate medical records for Patient 1. The circumstances are as follows:

44. The allegations of Paragraphs 20, 24 and 28, as set forth above, are incorporated herein by reference.

DISCIPLINARY CONSIDERATIONS

45. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on November 16, 2016, in a prior disciplinary action entitled *In the Matter of the Accusation Against Simmi P. Dhaliwal, M.D.* before the Medical Board of California, in Case Number 18-2013-234709, Respondent's license was revoked for gross negligence, repeated negligent acts and failure to maintain adequate and accurate medical records with respect to the care and treatment of three patients. However, the revocation of Respondent's license was stayed and Respondent was placed on thirty-five (35) months of probation with the requirement to complete an education course, medical record keeping course, maintain a practice and billing monitor and other standard terms and conditions. That decision is now final and is incorporated by reference as if fully set forth 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 63694, issued to Respondent Simmi P. Dhaliwal, M.D.;

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

3. Ordering Respondent Simmi P. Dhaliwal, 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; and

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

DATED: JAN 20 2022

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

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