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

In the Matter of the First Amended Accusation Against: Eric Scott Bianchini, M.D. Physician's & Surgeon's Certificate No. G 70838 Respondent.	Case No. 800-2018-044707

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 October 3, 2022.

IT IS SO ORDERED: September 1, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
ROSEMARY F. LUZON
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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: **ERIC SCOTT BIANCHINI, M.D.** **1232 Myrtle Avenue** **San Diego, CA 92103** **Physician's and Surgeon's Certificate No. G 70838,** Respondent.	Case No. 800-2018-044707 OAH No. 2021070164 **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 Rosemary F. Luzon, Deputy Attorney General.

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2. Respondent Eric Scott Bianchini, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Frank, Esq., whose address is: Neil, Dymott, Frank, McCabe & Hudson APLC, 110 West A Street, Suite 1200, San Diego, CA 92101.

3. On or about March 4, 1991, the Board issued Physician's and Surgeon's Certificate No. G 70838 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. 800-2018-044707, and will expire on January 31, 2023, unless renewed.

JURISDICTION

4. On or about March 3, 2022, First Amended Accusation No. 800-2018-044707 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on or about March 3, 2022, at his address of record. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A true and correct copy of First Amended Accusation No. 800-2018-044707 is attached as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2018-044707. 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 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 same by his attorney, Robert W. Frank, Esq.

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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 in First Amended Accusation No. 800-2018-044707, and Respondent hereby gives up his rights to contest those charges. Respondent further agrees that he has thereby subjected his Physician's and Surgeon's Certificate No. G 70838 to disciplinary action.

10. Respondent agrees that if an accusation is ever filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2018-044707 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. G 70838 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.

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13. 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.

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 Respondent Eric Scott Bianchini, M.D., Physician's and Surgeon's Certificate No. G 70838, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a), subsection (4). This Public Reprimand is issued in connection with the allegations relating to Respondent's care and treatment of Patient A, which are set forth in First Amended Accusation No. 800-2018-044707, as follows:

1. PUBLIC REPRIMAND.

On or about March 9, 2015, you failed to adequately manage your care and treatment of Patient A, in violation of California Business and Professions Code section 2234, as more fully described in First Amended Accusation No. 800-2018-044707, a true and copy of which is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of

licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 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, 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.

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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. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of $17,920.00 (seventeen thousand nine hundred twenty dollars and zero cents). Costs shall be payable to the Medical Board of California. One-third of said amount, *i.e.*, $5,973.33 (five thousand nine hundred seventy-three dollars and thirty-three cents), shall be paid to the Board within 14 calendar days from the effective date of this Decision. The remaining balance shall be paid to the Board, in equal monthly payments, within 24 months from the effective date of this Decision. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for an alternate 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.

5. FAILURE TO COMPLY. Any failure by Respondent to comply with the terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional conduct and grounds for further disciplinary action.

6. 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. 800-2018-044707 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, Robert W. Frank, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 70838. 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: April 6, 2022

Eric Scott Bianchini MD

ERIC SCOTT BIANCHINI, M.D.
Respondent

I have read and fully discussed with Respondent Eric Scott Bianchini, 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: 4-6-22

ROBERT W. FRANK, ESQ.
Attorney for Respondent

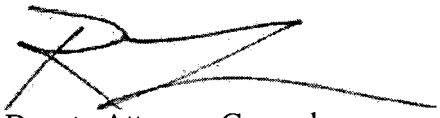
ENDORSEMENT

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

DATED: 4/6/22

Respectfully submitted,

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



Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2018-044707

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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: **Eric Scott Bianchini, M.D.** **1232 Myrtle Avenue** **San Diego, CA 92103** **Physician's and Surgeon's Certificate No. G 70838,** Respondent.	Case No. 800-2018-044707 **FIRST AMENDED ACCUSATION**

Complainant alleges:

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 March 4, 1991, the Medical Board issued Physician's and Surgeon's Certificate No. G 70838 to Eric Scott Bianchini, 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 January 31, 2023, unless renewed.

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 2220 of the Code states:

> Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. . .

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.
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> (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.
>
> . . .

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:
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> . . .
>
> (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.

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(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.

. . .

COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

8. 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 licensee 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.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

9. Respondent has subjected his Physician's and Surgeon's Certificate No. G 70838 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:[1]

10. On or about March 9, 2015, Patient A was admitted to Eisenhower Medical Center in Rancho Mirage, California for lumbar spine surgery. Respondent was the anesthesiologist. Patient A was then 75 years old with symptomatic lumbar degenerative scoliosis and stenosis, who had failed conservative management. Patient A's medical history included chronic obstructive pulmonary disease (COPD), HIV, ataxia, esophageal reflux disease, obstructive sleep apnea with CPAP, right bundle branch block, and peripheral neuropathy. Patient A was also noted to have left-sided foot drop and bilateral severe neuropathy. The planned procedure was a multilevel (L2-S2) lumbar decompression and fusion.

[1] References to "Patient A" herein are used to protect patient privacy.

11. On or about March 9, 2015, Respondent completed a pre-anesthesia history and physical for Patient A. Respondent's review of systems included a history of transient ischemic attack (TIA) in 2000 and 2010, with unsteady and slurred speech, a pre-operative EKG on March 2, 2015, which showed sinus bradycardia with a right bundle branch block, and a stress test on March 2, 2015, which was negative for ischemia or infarction with an ejection fraction of 54%. Patient A was noted to be 6'1" tall and 230 pounds, with a BMI of 30. His pre-operative vital signs included a blood pressure of 155/95 as of 05:30. Respondent assessed Patient A as having an America Society of Anesthesiology (ASA) score of 3, which represents a patient with severe systemic disease.

12. The surgery lasted approximately 10 hours. Anesthesia was started at 07:27 and ended at 19:00, for a total anesthesia time of 11 hours and 33 minutes. Patient A lost approximately 3,500 ml of blood during the surgery. In response to the blood loss, Patient A was transfused 1,100 ml of cell saver blood through use of the OrthoPAT®, a blood salvage device. However, no fresh frozen plasma (FFP) or platelets were transfused.

13. At approximately 17:00, Patient A's laboratory results showed a low hematocrit (Hct) level of 26.3%, a low hemoglobin (HgB) level of 8.5 g/dL, and a low platelet count of 99 K/uL. In addition, Patient A had a PT INR (Pro Thrombin International Normalized ratio) of 1.3. No FFP or platelets were administered in response to these indications that Patient A was behind in red blood cells (RBCs), platelets, and clotting factors.

14. At the beginning of the surgery, Respondent placed a radial arterial line in order to monitor Patient A's blood pressure due to the surgeon's request for induced hypotension. Blood pressure readings from the arterial line were recorded until approximately 15:25, at which point the readings ceased. From that point until the end of the surgery, blood pressure readings were obtained from the non-invasive blood pressure cuff only. Nevertheless, induced hypotension continued to be used for the remainder of the surgery.

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15. Patient A's total urine output for the duration of the procedure was 500 ml. Of this amount, 350 ml of the total urine output was documented at approximately 07:45, closer to the start of the surgery. The remaining 150 mL of urine output occurred at 09:30 (50 ml), 10:30 (40 ml), 11:45 (30 ml), 13:00 (10 ml), and 17:30 (20 ml).

16. Patient A's postoperative course included respiratory failure with prolonged ventilation and tracheostomy placement, renal failure requiring temporary renal dialysis, and loss of vision in the left eye. Patient A remained hospitalized until on or about April 7, 2015, when he was discharged to a long-term care facility.

17. Respondent committed repeated negligent acts in his care and treatment of Patient A, which included, but were not limited to the following:

(i) Respondent failed to adequately replace all blood product loss during the surgery.

(ii) Respondent failed to administer FFP and platelets in response to the low intra-operative laboratory values obtained at 17:00.

(iii) Respondent continued to use induced hypotension despite the lack of continuous blood pressure monitoring data available from a functioning arterial line.

(iv) Respondent failed to adequately address the risk of postoperative vision loss (POVL), including by (1) failing to ensure that adequate clotting factors were present and (2) avoiding intra-operative hypotension given the presence of other risk factors for POVL.

(v) Respondent failed to maintain adequate blood pressure and volume status to ensure adequate kidney perfusion.

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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. G 70838, issued to Respondent Eric Scott Bianchini, M.D.;

2. Revoking, suspending or denying approval of Respondent Eric Scott Bianchini, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering Respondent Eric Scott Bianchini, 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

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

DATED: MAR 03 2022

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

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