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

In the Matter of the Accusation Against: Vicente Gilsanz, M.D. Physician's and Surgeon's Certificate No. A 33800 Respondent.	Case No. 800-2019-055850

DECISION

The attached Stipulated Surrender of License and 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 14, 2022.

IT IS SO ORDERED September 7, 2022.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
REBECCA L. SMITH
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State Bar No. 179733
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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: VICENTE GILSANZ, M.D. Radiology Dept. MS #81 4560 Sunset Blvd. Los Angeles, CA 90027 Physician's and Surgeon's Certificate No. A 33800, Respondent.	Case No. 800-2019-055850 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Rebecca L. Smith, Deputy Attorney General.

2. Respondent Vicente Gilsanz, M.D. is represented in this proceeding by attorney Nicholas Jurkowitz, whose address is 1990 South Bundy Drive, Suite 777, Los Angeles, California 90025.

3. On or about April 24, 1979, the Board issued Physician's and Surgeon's Certificate No. A 33800 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-055850 and expired on September 30, 2020.

JURISDICTION

4. Accusation No. 800-2019-055850 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 1, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2019-055850 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-055850. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. 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.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2019-055850, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. 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 factual

basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, 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 Surrender 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.

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

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 33800, issued to Respondent Vicente Gilsanz, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2019-055850 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $13,551.25 (thirteen thousand five hundred fifty-one and twenty-five cents) prior to issuance of a new or reinstated license.

6. 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 agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2019-055850 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 licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Nicholas Jurkowitz. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 7-8-2022

VICENTE GILSANZ, M.D.
Respondent

I have read and fully discussed with Respondent Vicente Gilsanz, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 8-29-22

NICHOLAS JURKOWITZ
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 8/30/2022

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

Accusation No. 800-2019-055850

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

In the Matter of the Accusation Against: **Vicente Gilsanz, M.D.** **Radiology Dept. MS #81** **4650 Sunset Blvd.** **Los Angeles, CA 90027** **Physician's and Surgeon's Certificate No. A 33800,** Respondent.	Case No. 800-2019-055850 **ACCUSATION**

PARTIES

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

2. On or about April 24, 1979, the Board issued Physician's and Surgeon's Certificate No. A 33800 to Vicente Gilsanz, 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 expired on September 30, 2020.

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 118, subdivision (b) of the Code provides:

> The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restore, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

STATUTORY PROVISIONS

6. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct.[1] 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.

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[1] Unprofessional conduct under California and Business Code section 2234 is conduct which breaches the rules of the ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

(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 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

8. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

9. 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.

FACTUAL ALLEGATIONS

10. Respondent is a licensed physician and surgeon, board certified in diagnostic radiology, who at all times relevant to the allegations brought herein worked at Children's Hospital Los Angeles (CHLA) within Los Angeles County, California.

Patient 1[2]

11. On or about March 15, 2019, at approximately 1:19 a.m., Patient 1, a 6-month-old male, presented to the CHLA emergency department (ED) with three days of cough, fever, and difficulty breathing. Patient 1's vital signs were the following: temperature was 37.8° C, heart rate of 156 bpm, respiratory rate of 42 breaths/minute, and pulse oximetry at 95%. Upon physical examination, Patient 1 had coarse wheezing and diffuse rhonchi with chest retractions and appeared to have tachypnea. A chest X-ray was performed to rule out pneumonia.

12. According to Patient 1's medical records, the chest X-ray was preliminarily reviewed and dictated by CHLA medical resident A.S. on or about March 16, 2019, at approximately 7:33 a.m., whose report findings and impressions stated, "No definite focal consolidation. No pleural

[2] To protect the privacy of the patients and witnesses involved, the patients and witnesses names were not included in this pleading. Respondent is aware of the identity of each patient and witness. All patients and witnesses will be fully identified in discovery.

effusion or pneumothorax. Normal cardiomediastinal silhouette." This report was signed by Respondent on or about March 16, 2019 at approximately 9:50 a.m., with the following statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above." Patient 1's medical records do not include any documentation or differential diagnosis by Respondent as to any opacity, consolidation, or infiltration in the patient's right lower lung zone.

13. According to Patient 1's medical records, the X-ray was viewed and interpreted independently by the CHLA ED physician on March 16, 2019, at 5:47 a.m., who noted that contrary to the findings and impressions Respondent signed, there was "c/f RML pneumonia."[3] Patient 1 was given a presumptive diagnosis of bronchiolitis, rather than pneumonia, and was discharged home with albuterol for airway constriction and a course of amoxicillin, an antibiotic.

14. On or about April 8, 2019, at approximately 2:17 p.m., Patient 1's medical records were re-reviewed by Dr. F.G. from CHLA, who added that there was evidence of "right lower lobe infiltration." Contrary to the preliminary and final report signed by Respondent, which stated, "No definite focal consolidation."

15. According to records at CHLA, Respondent opened, reviewed, edited, and then signed approximately seventy (70) individual radiology reports on the morning of March 16, 2019 within the time span of approximately five (5) minutes. Respondent signed off on numerous radiology reports between March 15, 2019 and March 17, 2019 without viewing them. Not only did Respondent sign-off on these numerous unseen radiology reports, but Respondent did not review the corresponding radiological image(s)/study, including Patient 1's chest X-ray and report.

Patient 2

16. On or about March 16, 2019, at approximately 3:15 a.m., Patient 2, a 13-year-old female, presented to the CHLA ED with acute worsening of left lower quadrant pain for a week. According to Patient 2's medical records, her vital signs were the following: temperature was 36.8° C, heart rate of 80 bpm, and respiratory rate of 16 breaths/minute. Upon physical

[3] In other words, "concern for right middle lobe pneumonia."

examination, Patient 2 had moderate tenderness to palpation and some firmness in the left lower quadrant in which a positive "psoas sign" was noted in her medical records. Patient 2's documented differential diagnosis included appendicitis, menstrual cramps, or ovarian pathology including cyst or torsion. An ultrasound of Patient 2's pelvis was ordered to rule-out torsion or ovarian abnormalities.

17. According to Patient 2's medical records, the pelvic ultrasound was preliminarily interpreted and dictated by CHLA medical resident A.S. on or about March 16, 2019, at approximately 4:29 a.m., with report findings and impressions of "small pelvic free fluid and an otherwise normal uterus and ovaries." A CT was recommended if there was concern for appendicitis. This report was signed by Respondent on or about March 16, 2019, at approximately 9:50 a.m., with the following statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above."

18. According to records at CHLA, Respondent signed off on several radiology reports between March 15, 2019 and March 17, 2019 without viewing the report or the corresponding radiological image(s)/study, including Patient 2's pelvic ultrasound and report.

Patient 3

19. On or about March 16, 2019, at approximately 2:04 a.m., Patient 3, a 4-year-old male, presented to the CHLA ED after tripping and falling on his right elbow. The patient reported pain with a reluctance to move the elbow. Upon physical examination, Patient 3 had pain in the elbow and a decreased range of motion. An X-ray of Patient 3's right elbow was consequently ordered.

20. According to Patient 3's medical records, the X-ray of his elbow was preliminarily interpreted and dictated by CHLA medical resident A.S. on or about March 16, 2019, at approximately 2:21 a.m., whose report findings and impressions stated, "Small elbow joint effusion, cannot exclude occult fracture. No definite fracture visualized. No significant soft tissue swelling." This report was signed by Respondent on or about March 16, 2019 at approximately 9:50 a.m., with the following statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above."

21. According to records at CHLA, Respondent signed off on several radiology reports

between March 15, 2019 and March 17, 2019 without viewing them or the corresponding radiological image(s)/study, including Patient 3's X-ray and report.

Patient 4

22. On or about March 15, 2019, at approximately 7:30 p.m., Patient 4, a 1-year-old female, presented to the CHLA ED with seven days of cough, two days of fever, and nasogastric tube dislodgment. Patient 4's vital signs were the following: temperature was 38.9° C, blood pressure 102/88, heart rate of 181 bpm, respiratory rate of 64 breaths/minute, and pulse oximetry at 91-98%. Upon physical examination, Patient 4's lungs had coarse upper airway noises. A chest X-ray was performed to assess tube position and to look for signs of infection.

23. According to Patient 4's medical records, the chest X-ray was preliminarily interpreted and dictated by CHLA medical resident A.S. on or about March 15, 2019 at approximately 8:36 p.m., whose report findings and impressions stated, "The weighted feeding tube tip is within the gastric lumen. Nonspecific bowel gas pattern. No intraperitoneal free air. The lungs are hyperinflated. Stable chronic bronchovascular markings." This report was signed by Respondent on or about March 16, 2019, at approximately 9:52 a.m., with the following statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above."

24. According to records at CHLA, Respondent viewed Patient 4's chest X-ray on March 16, 2019, at 9:57 a.m., five minutes after he had already signed the report.

Patient 5

25. On or about March 16, 2019, at approximately 2:04 a.m., Patient 5, a 5-year-old female, presented to the CHLA ED with pain to the right elbow after a fall. According to Patient 5's medical records, a physical examination was conducted with the finding that the elbow was neurovascularly intact. An X-ray of the right elbow was ordered and a preliminary interpretation by the CHLA orthopedic surgeon at approximately 7:30 a.m. stated, "supracondylar humerus fracture... anterior and posterior fat pad signs."

26. On or about March 16, 2019, at approximately 9:04 a.m., Patient 5 was taken to a CHLA operating room for a closed reduction with percutaneous pinning and was subsequently

discharged after a successful procedure to fixate the fracture.

27. On or about March 16, 2019, at approximately 2:35 a.m., Patient 5's right elbow X-ray was preliminarily dictated by CHLA medical resident A.S., whose report findings and impressions stated, "There is an elbow joint effusion, cannot exclude occult fracture. No definite fracture visualized. Mild soft tissue swelling overlying the dorsal elbow. The bones are well aligned." According to Patient 5's medical records, this report was signed by Respondent on or about March 16, 2019, at approximately 9:50 a.m., with the statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above." Patient 5's medical records do not include any documentation or differential diagnosis by Respondent as to a supracondylar fracture or abnormal anterior humeral line.

28. On or about April 8, 2019, at approximately 2:18 p.m., Patient 5's medical records were re-reviewed by Dr. F.G. from CHLA, who found that "there is evidence of a supracondylar fracture."

29. According to records at CHLA, Respondent signed off on several radiology reports between March 15, 2019 and March 17, 2019 without viewing them or the corresponding radiological image(s)/study, including Patient 5's right elbow X-ray and report.

Patient 6

30. On or about March 15, 2019, at approximately 4:38 p.m., Patient 6, a 4-year-old male, presented to the CHLA ED with intermittent vomiting and diarrhea for four weeks with right upper quadrant tenderness and weight loss. According to Patient 6's medical records, his vital signs were the following: temperature was 38.6° C and heart rate of 103 bpm, with the patient being mildly febrile. On a physical examination, Patient 6 was noted to have a full abdomen, but it was soft, non-tender, with normal bowel sounds. At approximately 5:15 p.m., initial labs were conducted which indicated signs of dehydration. Consequently, an ultrasound of the abdomen and computed tomography (CT) of the abdomen and pelvis were ordered and fluids were given to the patient. Following negative results of the CT of the abdomen and pelvis, Patient

6 was discharged with advice to follow up if symptoms persisted.

31. According to Patient 6's medical records, the CT of the abdomen and pelvis was preliminarily reviewed and dictated by CHLA medical resident A.S. on or about March 15, 2019, at approximately 9:43 p.m., whose report findings and impressions stated, "No evidence of portal venous gas. Scattered stool is seen throughout a nondilated colon. Trace ascites, likely physiologic." This report was signed by Respondent on or about March 16, 2019, at approximately 9:52 a.m., with the following statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above." Patient 6's medical records do not include any documentation or identification by Respondent as to any portal venous gas.

32. According to Patient 6's medical records, the ultrasound of the abdomen was preliminarily reviewed and interpreted by CHLA medical resident A.S. on or about March 15, 2019, at approximately 9:56 p.m., whose report findings and impressions stated, "Multiple punctate echogenic foci are seen flowing within the portal vein, with abnormal spikes seen in the normally monophasic portal venous waveform, upon correlation with concurrent CT abdomen this most likely represents artifact." This report was signed by Respondent on or about March 16, 2019, at approximately 9:52 a.m., with the following statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above." Patient 6's medical records do not include a pathological finding of portal venous gas by Respondent based on the ultrasound.

33. On or about May 24, 2019, at approximately 2:05 p.m., Patient 6's CT was re-reviewed by Dr. F.G. from CHLA, who found, "Multiple punctate echogenic foci are seen flowing within the portal vein, with abnormal spikes seen in the normally monophasic portal venous waveform, concerning for portal venous gas."

34. According to records at CHLA Respondent signed off on several radiology reports between March 15, 2019 and March 17, 2019 without viewing them or the corresponding radiological image(s)/studies, including Patient 6's abdominal ultrasound and CT scans of the abdomen and pelvis and the reports.

Patient 7

35. On or about March 15, 2019, at approximately 11:23 p.m., Patient 7, a 10-year-old female, presented to the CHLA ED with left arm pain after falling during a soccer game on or about February 26, 2019. Patient 7 reported worsening symptoms three days prior. Upon physical examination, Patient 7's elbow had left forearm tenderness from the wrist to the elbow with mild swelling and she was unable to pronate or supinate the extremity. X-rays were performed to assess the left hand, forearm, and elbow.

36. According to Patient 7's medical records, the X-rays were preliminarily interpreted and dictated by CHLA medical resident A.S. on or about March 16, 2019, at approximately 12:44 a.m., whose report findings and impressions stated, "No significant joint effusion. Tiny osseous fragment near the coronoid process of the ulna possibly representing an additional ossification center, most likely a fracture. No significant soft tissue swelling. The forearm and hand are unremarkable." This report was signed by Respondent on or about March 16, 2019, at approximately 9:51 a.m., with the following statement, "I, Vicente Gilsanz have personally reviewed the images upon which this report is based and I agree with the findings and conclusions expressed above."

37. According to records at CHLA, Respondent signed off on several radiology reports between March 15, 2019 and March 17, 2019 without viewing them or the corresponding radiological image(s)/studies, including Patient 7's X-rays and reports.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

38. Respondent Vicente Gilsanz, M.D. has subjected his Physician's and Surgeon's Certificate No. A 33800 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patients 1, 2, 3, 5, 6 and 7. The circumstances are set forth in paragraphs 9 through 37, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

39. Respondent committed gross negligence during the care and treatment of each of Patients 1, 2, 3, 5, 6 and 7 by failing to review the radiological images/studies of each of Patients

1, 2, 3, 5, 6 and 7.

40. Respondent committed gross negligence during the care and treatment of each of Patients 1, 2, 3, 5, 6 and 7 by failing to adequately and properly review the medical resident radiology diagnostic reports of each of Patients 1, 2, 3, 5, 6 and 7, and nevertheless, signing off on said diagnostic reports.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts and/or Incompetence)

41. Respondent Vicente Gilsanz, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 33800 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivisions (c) and (d), of the Code, in that he committed repeated negligent acts and/or incompetence in his care and treatment of Patients 1, 2, 3, 4, 5, 6, and 7. The circumstances are as follows:

42. The allegations of the First Cause for Discipline, inclusive, are incorporated herein by reference as if fully set forth. Each of Respondent's acts and/or omissions as set forth in the First Cause for Discipline, individually, collectively, or in any combination thereof, constitutes negligence.

43. Respondent committed repeated negligent acts in connection with his care and treatment of patients as follows:

Patient 1

A. On or about March 15, 2019 and thereafter, Respondent committed negligence in connection with his care and treatment of Patient 1 by failing to adequately describe and document all the findings and differential diagnoses as to Patient 1, i.e., whether the patient's right lower lung zone opacity, consolidation, or infiltration could represent atelectasis or pneumonia.

Patient 4

B. On or about March 15, 2019 and thereafter, Respondent committed negligence in connection with his care and treatment of Patient 4 by signing a medical resident's diagnostic study of Patient 4's chest X-ray prior to actually reviewing the radiology study.

Patient 5

C. On or about March 16, 2019 and thereafter, Respondent committed negligence in connection with his care and treatment of Patient 5 by signing an inadequate final report which only raises the possibility of an occult fracture when there is an obvious supracondylar fracture present with multiple secondary signs. There is a clear fracture line consistent with a supracondylar fracture. Furthermore, there is an abnormal anterior humeral line, which is a secondary sign consistent with a supracondylar fracture.

Patient 6

D. On or about March 15, 2019 and thereafter, Respondent committed negligence in connection with his care and treatment of Patient 6 by failing to identify portal venous gas in the final report and incorrectly concluding that there was an artifact. An ultrasound, which is more sensitive than CT for detecting portal venous gas, was inadequately considered by Respondent. Portal venous gas can be seen in very serious illnesses such as bowel ischemia as well as relatively benign disease such as enteritis. Proper identification of portal venous gas is a very important responsibility of a radiologist. At his interview with a Department of Consumer Affairs Health Quality Investigation Unit (HQIU) Investigator and medical consultant, Respondent stated, "So, what would you do if there's concern for something? You would do an x-ray that is more sophisticated – the- the CT. They didn't find it. Uh – that's- that's it." Respondent demonstrated that he does not know the nuance and difference in evaluating portal venous gas with an ultrasound versus a CT, and implies that the CT is the superior and definitive test.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

44. Respondent Vicente Gilsanz, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 33800 to disciplinary action under sections 2227 and 2234, as defined by section 2266 of the Code, in that he failed to maintain adequate and accurate medical records of Patients 1, 2, 3, 4, 5, 6 and 7. The circumstances are as follows:

45. The allegations of the First and Second Causes for Discipline, inclusive, are

incorporated herein by reference as if fully set forth.

FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Corrupt Acts and False Representations)

46. Respondent Vicente Gilsanz, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 33800 to disciplinary action under sections 2234, subdivision (e) and 2261 of the Code in that he has engaged in dishonest, corrupt acts and/or made false representations in connection with his care and treatment of Patients 1, 2, 3, 4, 5, 6 and 7. The circumstances are as follows:

47. The allegations of the First, Second and Third Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth.

48. Respondent falsified the records of each of Patients 1, 2, 3, 5, 6 and 7, implying that he properly reviewed each of the medical resident radiology diagnostic reports and radiologic studies and images of each of Patients 1, 2, 3, 5, 6 and 7 when, in fact, he did not adequately review such reports and radiologic studies and images. Respondent falsified medical records and documented radiology report reviews that did not occur as to Patients 1, 2, 3, 4, 5, 6 and 7.

FIFTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

49. Respondent Vicente Gilsanz, M.D. has further subjected his Physician's and Surgeon's Certificate No. A 33800 to disciplinary action under sections 2227 and 2234, as defined by section 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine as to his care and treatment of Patients 1, 2, 3, 4, 5, 6, and 7. The circumstances are as follows:

50. The allegations of the First, Second, Third and Fourth Causes for Discipline, inclusive, are incorporated herein by reference as if fully set forth.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 33800, issued to Vicente Gilsanz, M.D.;

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

3. Ordering Vicente Gilsanz, 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: MAY 12 2022

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

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