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

In the Matter of the First Amended Accusation Against: Pervaiz Akhter Chaudhry, M.D. Physician's and Surgeon's Certificate No. A 79662 Respondent.	Case No. 800-2018-045293

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 2, 2023.

IT IS SO ORDERED January 31, 2023.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
LYNETTE D. HECKER
Deputy Attorney General
State Bar No. 182198
California Department of Justice
2550 Mariposa Mall, Room 5090
Fresno, CA 93721
Telephone: (559) 705-2320
Facsimile: (559) 445-5106
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: **PERVAIZ AKHTER CHAUDHRY, M.D.** **7455 N Fresno St, Ste 301** **Fresno, CA 93720-2481** **Physician's and Surgeon's Certificate No. A 79662** Respondent.	Case No. 800-2018-045293 OAH No. 2021090195 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the First Amended Accusation.

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

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matter by Rob Bonta, Attorney General of the State of California, by Lynette D. Hecker, Deputy Attorney General.

2. Pervaiz Akhter Chaudhry, M.D. (Respondent) is represented in this proceeding by attorney Gregory Abrams, whose address is: 2443 Filmore Street, #380-4089, San Francisco, CA 94115.

3. On or about July 1, 2002, the Board issued Physician's and Surgeon's Certificate No. A 79662 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. 800-2018-045293, and will expire on December 31, 2023, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-045293 was filed before the Board, and is currently pending against Respondent. The original Accusation and all other statutorily required documents were properly served on Respondent on June 15, 2021. Respondent timely filed his Notice of Defense contesting the Accusation. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on April 22, 2022. This stipulation shall serve as Respondent's Notice of Defense pursuant to Government Code section 11506, subdivision (a)(4).

5. A copy of the First Amended Accusation No. 800-2018-045293 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. 800-2018-045293. 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.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 800-2018-045293, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case or factual basis with respect to the charges and allegations in First Amended Accusation, that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 79662 to disciplinary action, and Respondent hereby gives up his right to contest those charges. Respondent agrees that if in any future case he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in First Amended Accusation No. 800-2018-045293 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's 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 his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent, Pervaiz Akhter Chaudhry, M.D., Physician's and Surgeon's Certificate No. A 79662, shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand is issued in connection with Respondent's recordkeeping of two patients and care and treatment of one patient, as set forth in First Amended Accusation No. 800-2018-045293.

B. MEDICAL RECORD KEEPING COURSE

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the

First Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

C. ENFORCEMENT

Failure to timely complete the Medical Recordkeeping Course outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

D. INVESTIGATION/ENFORCEMENT COST RECOVERY

Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement incurred from January 1, 2022, including, but not limited to, expert review, amended accusations, legal reviews, joint investigations, and subpoena enforcement, as applicable, in the amount of $12,850.00 (twelve thousand eight hundred fifty dollars). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

E. 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. 800-2018-045293 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, Gregory Abrams. 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: April 26, 2022

PERVAIZ AKHTER CHAUDHRY, M.D.
Respondent

I have read and fully discussed with Respondent Pervaiz Akhter Chaudhry, 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: 4/26/2022

GREGORY ABRAMS
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DJUHL
Supervising Deputy Attorney General

LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory Abrams. 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: _____ _____

PERVAIZ AKHTER CHAUDHRY, M.D.
Respondent

I have read and fully discussed with Respondent Pervaiz Akhter Chaudhry, 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: _____ _____

GREGORY ABRAMS
Attorney for Respondent

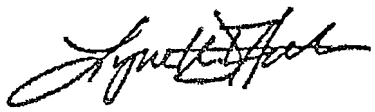
ENDORSEMENT

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

DATED: ____04/27/2022_____

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General



LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant

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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: **Pervaiz Akhter Chaudhry, M.D.** **7455 N Fresno St., Ste. 301** **Fresno, CA 93720-2481** **Physician's and Surgeon's Certificate No. A 79662,** Respondent.	Case No. 800-2018-045293 **FIRST AMENDED ACCUSATION**

PARTIES

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

2. On or about July 1, 2002, the Medical Board issued Physician's and Surgeon's Certificate Number A 79662 to Pervaiz Akhter Chaudhry, 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 December 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, unless otherwise indicated.

4. Section 2227 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:
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> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

STATUTORY PROVISIONS

5. Section 2234 states, in pertinent part:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> [¶] . . . [¶]
>
> (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.

[¶] . . . [¶]

6. Section 2266 states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

7. Section 125.3 of the Code 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[1], with failure of the licensee to comply subjection 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.

FACTUAL ALLEGATIONS

PATIENT A[2]

8. Patient A was an 81-year-old male with a history of diabetes, hypertension and hyperlipidemia.

a) On or about July 14, 2016, Respondent performed an elective coronary artery bypass grafting surgery on Patient A. Patient A received a left internal mammary artery to left anterior descending artery graft, along with saphenous vein grafts to the first and second obtuse marginal branches of the circumflex artery. His right coronary artery was found to be unbypassable. The intra-operative course noted hemodynamic instability requiring multiple vasopressors upon his leaving the operating room.

[1] As of November 18, 2021, Section 125.3 of the Code has been amended to remove subsection (k), which precluded the Board from collecting costs. The Board may collect investigation, prosecution, and other costs incurred for a disciplinary proceeding against a licensee beginning January 1, 2022.

[2] Patient names are redacted to protect their privacy.

b) Patient A's post-operative notes showed continued hemodynamic instability and moderate bleeding. Patient A arrived in the Intensive Care Unit (ICU) at approximately 12:40 p.m.

c) At approximately 2:15 p.m., Patient A had an episode of ventricular tachycardia. ICU staff notified Respondent and he requested that they contact another physician. At approximately 2:20 p.m., ICU staff called the other physician, and he arrived at Patient A's bedside by 2:30 p.m. At approximately 3:10 p.m., intra-aortic balloon pump was placed in Patient A's chest and his chest tube output was 560 cubic centimeters (cc) within the last hour and total output since surgery was 750 cc. At approximately 4:05 p.m., blood factors were given to Patient A.

d) At approximately 5:00 p.m., Respondent was at Patient A's bedside for treatment. His total chest tube output at 6:00 p.m. was 1200 cc. As Patient A's chest tube continued to drain at approximately 350-360 cc per hour, the other physician was again called at approximately 8:00 p.m. and he arrived at approximately 8:15 p.m. The decision was made to take Patient A back to the operating room for a mediastinal exploration, and Patient A left the ICU at approximately 8:50 p.m.

e) On return to the operating room, Patient A had a cardiac arrest requiring CPR, and he was emergently placed on cardiopulmonary bypass. Patient A had biphasic flow in the vein graft to the second obtuse marginal, and the distal anastomosis was then explored and revised. It was noted that Patient A suffered severe right ventricular failure and was placed on extracorporal membraneous oxygenation (ECMO).

f) On or about the following morning, July 15, 2016, Patient A returned to the operating room for re-exploration. No specific bleeders were identified, and his chest was left open. Patient A did not recover cardiac function and remained in multi-organ failure while dependent on ECMO. Patient A was placed in comfort care on or about July 19, 2016, and died that day.

g) Patient A suffered substantial intraoperative myocardial infarct and was on significant amounts of four inotropic agents. Such a result, in combination with

lateral ST elevations and transesophageal of severe right ventricle failure, suggests that further deterioration could be anticipated. It was a simple departure from the standard of care for Respondent to not have inserted an intra-aortic balloon pump during the first surgery in order to attempt to stabilize Patient A prior to leaving the operating room. However, it likely would not have reversed Patient A's outcome.

h) Respondent's medical records of the preoperative history and physical done on the day of the surgery fail to mention specific cardiac catheterization result, echo results, or heart exam. Such records are important to summarize the thought process going into the surgery recommendation.

PATIENT B

9. Patient B was a 61-year-old male with a history of end-stage renal disease (ESRD), on dialysis, insulin dependent diabetes mellitus, cirrhosis seizure disorder with possible stroke in the past, and hyperlipid disorder.

a) On or about April 17, 2017, Patient B underwent a cardiac catheterization, and was found to have three-vessel disease. He was then transferred for coronary artery bypass grafting and was seen by Respondent on or about April 18, 2017. Respondent made a medical notation that Patient B was seen, but that the angiograms from the prior hospital were not available for him to review.

b) On or about April 22, 2017, Respondent performed a full history and physical examination of Patient B. Respondent's preoperative history and physical did not mention specific cardiac catheterization results, echo result, or a heart exam. Such documentation is important to summarize the thought process going into the recommendation of heart surgery.

c) On or about April 23, 2017, Respondent performed an off-pump coronary artery bypass surgery. Respondent's operative notations only state that an intra-aortic balloon pump was placed; it does not describe its placement or its indication.

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FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

10. Respondent is subject 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 records relating to his provision of services to Patient A and Patient B, as more particularly alleged in paragraphs 8 through 9, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

11. The standard of care is for a preoperative history and physical exam to document the elements that determine the risks and benefits of an operation prior to the operation.

a) Respondent failed to maintain adequate and accurate medical records regarding Patient A because his records were incomplete and failed to document significant factors that contribute to the risk involved in the surgery performed upon Patient A by Respondent, which is a simple departure from the standard of care.

b) Respondent failed to maintain adequate and accurate medical records regarding Patient B because his records were incomplete and failed to document the indications and performance of the operation he performed, which was a simple departure from the standard of care.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

12. Respondent is subject to disciplinary action under section 2234, subdivision (c), in that he committed repeated negligent acts relating to his provision of services to Patient A and Patient B as more particularly alleged in paragraphs 8 through 11, above, which are hereby realleged and incorporated by reference as if fully set forth herein. Additional circumstances are as follows:

13. It is the standard of care for all available options to be exhausted in order for a patient to maintain hemodynamic stability prior to leaving the operating room. Respondent committed a simple departure from the standard of care by not placing an intra-aortic balloon pump to attempt to stabilize Patient A prior to leaving the operating room.

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 79662, issued to Pervaiz Akhter Chaudhry, M.D.;

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

3. Ordering Pervaiz Akhter Chaudhry, M.D., to pay the Board the costs of the investigation and enforcement of this case incurred beginning on January 1, 2022, and if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: APR 22 2022

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

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