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

In the Matter of the First Amended Accusation Against: Donald A. Ramberg, M.D. Physician's & Surgeon's Certificate No. G 56939 Respondent.	Case No. 800-2018-049179

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

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

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General
CHRISTINA SEIN GOOT
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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: **DONALD A. RAMBERG, M.D.** **699 California Blvd., Suite B** **San Luis Obispo, CA 93401** **Physician's and Surgeon's Certificate No. G 56939,** Respondent.	Case No. 800-2018-049179 OAH No. 2021050435 **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 Christina Sein Goot, Deputy Attorney General.

2. Respondent Donald A. Ramberg, M.D. (Respondent) is represented in this proceeding by attorney Mark B. Connely, whose address is: 444 Higuera Street, Third Floor, San Luis Obispo, CA 93401.

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3. On or about March 31, 1986, the Board issued Physician's and Surgeon's Certificate No. G 56939 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. 800-2018-049179, and will expire on July 31, 2023, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-049179 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 October 12, 2021. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2018-049179 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. 800-2018-049179. 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 understand and agrees that the charges and allegations in First Amended Accusation No. 800-2018-049179, if proven at a hearing, constitute cause for imposing discipline

upon his Physician's and Surgeon's Certificate. Respondent hereby gives up his right to contest those charges and allegations.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended Accusation No. 800-2018-049179 and that he has thereby subjected his license to disciplinary action.

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

CONTINGENCY

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

13. Respondent agrees that if he ever petitions for modification of the terms of this stipulation, or if a subsequent accusation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation No. 800-2018-049179 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

14. 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 agreement of the parties in this above-entitled matter.

15. 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.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 56939, issued to Respondent Donald A. Ramberg, M.D., is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4), and it is further ordered that Respondent comply with the following attendant terms and conditions:

1. PUBLIC REPRIMAND

The Public Reprimand issued in connection with First Amended Accusation No. 800-2018-049179, against Respondent Donald A. Ramberg, M.D. is as follows:

"You failed to accurately confirm the site of surgery in connection with Patient 1, and did not maintain adequate and accurate medical records in connection with Patient 2 by failing repeatedly to document physical examinations and to document your reasoning for performing a single level laminectomy and foraminotomy."

2. 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(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation. Any violation of this condition or failure to complete the program and/or comply with the program recommendations shall be considered unprofessional conduct and grounds for further disciplinary action.

3. <u>EDUCATION COURSES</u>

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 40 hours of educational program(s) or course(s) taken pursuant to this condition 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 submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the educational program(s) or course(s). Respondent shall participate in and successfully complete the educational program(s) or course(s) hereunder within one (1) year of the effective date of this Order.

Respondent's failure to enroll, participate in, or successfully complete the courses within the designated time period, unless the Board or its designee agrees in writing to an extension of that time, shall constitute general unprofessional conduct and may serve as grounds for further disciplinary action.

4. <u>MEDICAL RECORD KEEPING COURSE</u>

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 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.

Respondent's failure to enroll, participate in, or successfully complete the medical record keeping course within the designated time period, unless the Board or its designee agrees in writing to an extension of that time, shall constitute general unprofessional conduct and may serve as grounds for further disciplinary action.

5. INVESTIGATION/ENFORCEMENT COST RECOVERY

Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the year of 2022, including, but not limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena enforcement, as applicable, in the amount of $24,110.00 (twenty-four thousand one hundred ten dollars and zero cents). Costs shall be payable to the Medical Board of California within one (1) year from the effective date of this Decision.

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

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs.

6. FAILURE TO COMPLY

Failure to comply with any of the terms of this Disciplinary Order shall constitute general unprofessional conduct and may serve as grounds for further disciplinary action. In such circumstances, the Complainant may reinstate First Amended Accusation No. 800-2018-049179 or file a supplemental accusation alleging any failure to comply with any provision of this order by Respondent as unprofessional conduct.

7. 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. 800-2018-049179 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, Mark B. Connely. 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: 9/8/2022

DONALD A. RAMBERG, M.D.
Respondent

I have read and fully discussed with Respondent Donald A. Ramberg, 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: Sept. 9, 2022

MARK B. CONNELY, ESQ.
Attorney for Respondent

[Endorsement on following page]

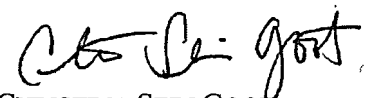
ENDORSEMENT

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

DATED: _____9/9/2022_____

Respectfully submitted,

ROB BONTA
Attorney General of California
EDWARD KIM
Supervising Deputy Attorney General



CHRISTINA SEIN GOOT
Deputy Attorney General
Attorneys for Complainant

LA2020601143

Exhibit A

First Amended Accusation No. 800-2018-049179

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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: DONALD A. RAMBERG, M.D. 699 California Boulevard, Suite B San Luis Obispo, CA 93401 Physician's and Surgeon's Certificate No. G 56939, Respondent.	Case No. 800-2018-049179 **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 (Board).

2. On March 31, 1986, the Board issued Physician's and Surgeon's Certificate Number G 56939 to Donald A. Ramberg, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on July 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 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.

5. Section 2234 of the Code states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> (d) Incompetence.
>
> (e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.
>
> (f) Any action or conduct that would have warranted the denial of a certificate.
>
> (g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. 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.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence – Patients 1 and 2)

7. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code in that he committed gross negligence in his care and treatment of Patients 1 and 2.[1] The circumstances are as follows:

8. At all times relevant to the allegations herein, Respondent was a physician practicing neurological surgery.

Patient 1

9. Patient 1, a 73-year-old male, was referred to Respondent for evaluation of neck pain. On July 12, 2018, Respondent's assessment of Patient 1 was cervical spondylosis with myelopathy. Respondent subsequently requested prior authorization for an anterior cervical discectomy and fusion at the C5-6 and C6-7 levels. The surgery was approved, and Patient 1 signed a consent form for surgery at these levels.

10. On August 10, 2018, Respondent performed the surgery; however, there was an inadvertent extension of the fusion to the C7-T1 level. Although Respondent performed X-rays during surgery, the surgical marker's tip was not visible on the X-ray performed at 11:20:50. Respondent did not perform any other X-rays before proceeding with the discectomy and as a direct result, proceeded to treat C6-7 and C7-T1, instead of C5-6 and C6-7. Rather than marking a more cephalad level and repeating the X-ray to confirm the site, Respondent made assumptions about anterior osteophytes.

11. The standard of care requires that a physician accurately confirm the site of surgery. When operating on the spine, this site confirmation includes ensuring the correct operative level with radiographic imaging.

12. Respondent should have recognized that the X-ray was insufficient to confirm the operative level and, rather than make assumptions about anterior osteophytes, proceeded with an additional X-ray where the tip of the surgical marker could have been visualized at an identifiable level. This represents an extreme departure from the standard of care.

[1] The patient are referred to by number to protect their privacy..

Patient 2

13. On July 3, 2014, Patient 2, a 55-year-old male, first presented to Respondent with complaints of back pain and leg weakness. Patient 2 had a history of L5-S1 fusion and L4-5 laminotomy,[2] medial fascetectomy,[3] and foraminotomy.[4] On July 23, 2014, Respondent performed a bilateral L4-5 laminectomy and foraminotomy.

14. Patient 2 followed up and/or treated with Respondent on August 5, 2014; August 21, 2014; October 2, 2014; November 13, 2014; January 3, 2015; and January 29, 2015. Respondent did not document a physical examination at these visits.

15. On February 25, 2015, Patient 2 reported a history of cervical pain with radiation into both arms and a failure of physical therapy and pain management to relieve the pain. Physical examination revealed restricted cervical range of motion with pain radiating out the left arm. On this date, Respondent performed a left C3-4 laminectomy and foraminotomy after discussing the risks and benefits of the procedure with Patient 2.

16. From March 17, 2015 through June 23, 2015, Respondent saw Patient 2 for follow-up visits. Respondent documented a physical examination of Patient 2's wound on March 17, 2015. Respondent did not document a physical examination at any other visit during this time period.

17. From July 2015 through November 2018, Respondent regularly saw Patient 2 for treatment and/or follow-up. Respondent consistently failed to document physical examinations at these visits.

18. On January 16, 2019, Patient 2 is noted to have worsening back and leg pain. Although Respondent documented a physical examination, no sensory examination is recorded. Respondent recommended a repeat MRI of the lumbar spine, last performed on July 27, 2017, in anticipation of surgery "so that an assessment of the surgery needed is updated." On this date, despite the lack of the repeat MRI as ordered, Respondent performed a bilateral L3-4

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[2] A laminotomy is an orthopedic neurosurgical procedure that removes part of the lamina of a vertebral arch in order to relieve pressure in the vertebral canal.

[3] Facetectomy is a surgical procedure which involves decompression of a spinal nerve root.

[4] Foraminotomy is a surgical procedure to relieve pressure on compressed nerves.

laminectomy and discectomy with interbody and posterolateral instrumented fusion, attaching it to the prior construct at L4-S1.

19. Respondent saw Patient 2 for follow-up visits on March 28, 2019; May 7, 2019; September 5, 2019; and October 31, 2019. Again, Respondent did not document any physical examination at these visits.

20. The standard of care requires that a physician produce and maintain accurate medical records of the care provided, including both positive and negative pertinent aspects of the history and physical examination.

21. Respondent's repeated failure to document a physical examination represents an extreme departure from the standard of care.

22. The standard of care requires a physician to recommend and perform surgical interventions that have a reasonable chance of providing efficacy. There needs to be a sufficient correlation between the patient's presenting complaints, the physical examination findings, the results of diagnostic testing, and the expected outcome from surgery.

23. The left C3-4 laminectomy and foraminotomy performed by Respondent on February 25, 2015 would not address Patient 2's pre-operative condition. An MRI of the cervical spine performed pre-operatively on January 23, 2015, revealed foraminal stenosis on the left at C3-4 and on the right at C5-6 and C6-7. Patient 2 had three-level degenerative disease in the cervical spine and only one level was addressed with the surgery. Respondent should have known that Patient 2's pre-operative condition would not have been expected to improve with a single level laminectomy and foraminotomy. Respondent also performed a lumbar fusion at L3-4 on January 16, 2019, based on an MRI of the lumbar spine obtained on July 27, 2017. Although Respondent recommended a repeat MRI prior to surgery, he did not follow his own recommendation to ensure the appropriateness of his surgical recommendation. Respondent's performance of these surgeries under these circumstances, given the inherent risks of surgery, represents an extreme departure from the standard of care.

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SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts – Patients 1 and 2)

24. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that he committed repeated negligent acts in his care and treatment of Patients 1 and 2. The circumstances are as follows:

25. The allegations of the First Cause for Discipline are incorporated by reference as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Records – Patient 2)

26. Respondent is subject to disciplinary action under section 2266 of the Code in that he failed to maintain adequate and accurate records concerning the care and treatment of Patient 2. The circumstances are as follows:

27. Complainant refers to and, by this reference, incorporates paragraphs 13-21, above, as though set forth fully herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 56939, issued to Respondent Donald A. Ramberg, M.D.;

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

3. If placed on probation, ordering Respondent Donald A. Ramberg, M.D. to pay the Board the costs of probation monitoring; and

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

DATED: OCT 12 2021

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

Complainant

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