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7 **BEFORE THE**
8 **MEDICAL BOARD OF CALIFORNIA**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2021-079996

12 **CHIRAG MAHESHBHAI PANDYA, M.D.**
13 **1465 Forenza Court**
Pleasanton, CA 94566-6496

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A 99084,**

16 Respondent.

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18 **PARTIES**

19 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
20 the Executive Director of the Medical Board of California, Department of Consumer Affairs
21 (Board).

22 2. On or about February 28, 2007, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 99084 to Chirag Maheshbhai Pandya, M.D. (Respondent). The Physician's
24 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 31, 2025, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

6 (a) A licensee whose matter has been heard by an administrative law judge of
7 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
8 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:

9 (1) Have his or her license revoked upon order of the board.

10 (2) Have his or her right to practice suspended for a period not to exceed one
11 year upon order of the board.

12 (3) Be placed on probation and be required to pay the costs of probation
monitoring upon order of the board.

13 (4) Be publicly reprimanded by the board. The public reprimand may include a
14 requirement that the licensee complete relevant educational courses approved by the
board.

15 (5) Have any other action taken in relation to discipline as part of an order of
16 probation, as the board or an administrative law judge may deem proper.

17 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
18 medical review or advisory conferences, professional competency examinations,
19 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.

20 5. Section 2234 of the Code, states:

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

23 (a) Violating or attempting to violate, directly or indirectly, assisting in or
24 abetting the violation of, or conspiring to violate any provision of this chapter.

25 (b) Gross negligence.

26 (c) Repeated negligent acts. To be repeated, there must be two or more
27 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.

28 (1) An initial negligent diagnosis followed by an act or omission medically

1 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

2 (2) When the standard of care requires a change in the diagnosis, act, or
3 omission that constitutes the negligent act described in paragraph (1), including, but
4 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.

5 (d) Incompetence.

6 (e) The commission of any act involving dishonesty or corruption that is
7 substantially related to the qualifications, functions, or duties of a physician and
surgeon.

8 (f) Any action or conduct that would have warranted the denial of a certificate.

9 (g) The failure by a certificate holder, in the absence of good cause, to attend
10 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.

11 6. All the events alleged in this Accusation took place in California.

12 COST RECOVERY

13 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
17 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
18 included in a stipulated settlement.

19 FACTUAL ALLEGATIONS

20 8. Respondent is board-certified in pulmonology, critical care medicine, and sleep
21 medicine.

22 9. Patient 1, who was born in 1943, had a chronic lung condition (severe chronic
23 obstructive pulmonary disease).¹ On January 24, 2020, Respondent performed a bronchoscopic
24 lung volume reduction with Zephyr endobronchial valve placement on Patient 1.² Respondent

25 ¹ Chronic obstructive pulmonary disease (COPD) is characterized by destruction of lung
26 tissue, which results in impaired gas exchange and abnormal increase in the amount of air volume
27 trapped in the chest. Excessive degree of air build up places respiratory muscles at a mechanical
disadvantage, resulting in progressive shortness of breath. "Patient 1" and "Patient 2" are used to
protect privacy.

28 ² A bronchoscopic lung volume reduction procedure aims to stop breathlessness by

1 did not take sufficient measures to ensure that a report provided to him prior to doing the
2 bronchoscopic lung volume reduction procedure on Patient 1 was in fact the proper report with
3 Patient 1's medical information. Respondent failed to do a sufficiently thorough clinical and
4 radiographic assessment before performing the endobronchial valve placement procedure on
5 Patient 1. Respondent placed the valves in the right upper lobe and right middle lobe even though
6 those lobes were healthier than other lobes in Patient 1's lungs. Patient 1 suffered post-procedure
7 complications from the bronchoscopic lung volume reduction with Zephyr endobronchial valve
8 placement, including but not limited to worsening hypoxia (deficiency in oxygen reaching
9 tissues) and hypercapnia (high levels of carbon dioxide in blood). Respondent removed the
10 valves from Patient 1's lung on February 6, 2020.

11 10. Patient 2, a man born in 1951, also suffered from chronic obstructive pulmonary
12 disease. Also on January 24, 2020, Respondent performed lung volume reduction with Zephyr
13 endobronchial valve placement on Patient 2. Respondent did not take sufficient measures to
14 ensure that a report provided to him prior to doing the procedure on Patient 2 was in fact the
15 proper report with Patient 2's medical information. Respondent placed endobronchial valves in
16 Patient 2's lung even though endobronchial valve therapy was not medically indicated for Patient
17 2.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct/ Gross Negligence – Patient 1)**

20 11. Paragraphs 8 and 9 are hereby incorporated by reference as if fully stated herein.
21 Respondent has subjected his physician's and surgeon's certificate to discipline under Business
22 and Professions Code sections 2234 and 2234(b) for his care and treatment of Patient 1.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct/ Repeated Negligent Acts – Patient 2)**

25 12. Paragraphs 8 and 10 are hereby incorporated by reference as if fully stated herein.
26 Respondent has subjected his physician's and surgeon's certificate to discipline under Business
27 and Professions Code sections 2234 and 2234(c) for his care and treatment of Patient 2.

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inserting valves (via a bronchoscope, which is a flexible, fiberoptic camera) into the most disease
affected lobe of the lung, thus allowing air to exit but not re-enter.


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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 Number A 99084, issued to Respondent Chirag Maheshbhai Pandya, M.D.;
2. Revoking, suspending or denying approval of Respondent Chirag Maheshbhai Pandya, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Chirag Maheshbhai Pandya, 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 02 2024



REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant