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

In the Matter of the Accusation Against:	)	
Frank Sullivan Reynolds, M.D.	)	Case No. 800-2017-034136
Physician's and Surgeon's Certificate No. G 44261	)	
Respondent	)	

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 January 2, 2020.

IT IS SO ORDERED December 3, 2019.

MEDICAL BOARD OF CALIFORNIA

By: Kristina Lawson
Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
RYAN J. YATES
Deputy Attorney General
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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:	Case No. 800-2017-034136
FRANK SULLIVAN REYNOLDS, M.D. **3406 Granby Drive** **Sacramento, CA 95827-3521** **3525 Bajamont Way** **Carmichael, CA 95608-2809** **Physician's and Surgeon's Certificate No. G 44261** Respondent.	OAH No. 2019030801 **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. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in

this matter by Xavier Becerra, Attorney General of the State of California, by Ryan J. Yates, Deputy Attorney General.

2. Frank S. Reynolds, M.D. (Respondent) is represented in this proceeding by attorney Ian Scharg, Esq., whose address is Schuering, Zimmerman & Doyle LLP 400 University Ave. Sacramento, CA 95825-65021.

3. On or about March 9, 1981, the Board issued Physician's and Surgeon's Certificate No. G 44261 to Frank S. Reynolds, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-034136, expired on May 31, 2018, and has not been renewed.

JURISDICTION

4. On or about November 15, 2018, Accusation No. 800-2017-034136 was filed before the Board, and is currently pending against Respondent. A true and correct copy of Accusation No. 800-2017-034136 and all other statutorily required documents were properly served on Respondent. Respondent elected to surrender his Physician's and Surgeon's Certificate No. G 44261. A copy of Accusation No. 800-2017-034136 is attached as Exhibit 1 and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-034136. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 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 and agrees that the charges and allegations in Accusation No. 800-2017-034136, 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 Respondent hereby gives up his right to contest those charges.

10. 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

11. 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.

12. 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.

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 Disciplinary Order:

DISCIPLINARY ORDER

1. IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 44261 issued to Respondent Frank S. Reynolds, M.D., shall be Publicly Reprimanded by the Medical Board of California under Business and Professions Code section 2227, subdivision (a)(4), in resolution of Accusation No. 800-2017-034136, attached as Exhibit A. This Public Reprimand, which is issued in connection with Accusation No. 800-2017-034136, is as follows:

2. Between on or about November 17, 2011, and November 19, 2011, you committed gross negligence and repeated negligent acts in your care and treatment of Patient A, in that you failed to place a properly utilize a stent during Patient A's surgery; failed to provide a dose of indomethacin, in order to protect Patient A from pancreatitis; and failed to refer Patient A to obtain a good faith evaluation by a health care provider and a hospital admission, after receiving calls from calls from Patient A and his wife, which described his symptoms, as more fully described in Accusation No. 800-2017-034136.

3. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ian Scharg. 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: 9/24/2019

FRANK SULLIVAN REYNOLDS, M.D.
Respondent

I have read and fully discussed with Respondent Frank Sullivan Reynolds, 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: 9/24/19

IAN SCHARG
Attorney for Respondent

ENDORSEMENT

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

DATED: 9/24/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

RYAN J. YATES
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-034136

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Nov 15 2018
BY D. Richards ANALYST

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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: **Frank S. Reynolds, M.D.** 3000 Q Street Sacramento, CA 95816 Physician's and Surgeon's Certificate No. G 44261, Respondent.	Case No. 800-2017-034136 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board").

2. On or about March 9, 1981, the Medical Board issued Physician's and Surgeon's Certificate No. G 44261 to Frank S. Reynolds, M.D. ("Respondent"). That Certificate was in full force and effect at all times relevant to the charges brought herein and expired on May 31, 2018.

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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 2227 of the Code provides, in pertinent part, 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, 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:

"(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.

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6. Section 118 of the Code states, in pertinent part:

"...

"(b) 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, restored, 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.

"(c) As used in this section, "board" includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and "license" includes "certificate," "registration," and "permit."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent's Physician's and Surgeon's Certificate No. G 44261 is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that Respondent committed gross negligence in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

8. On or about November 17, 2011, at or about 11:15 a.m., Patient A, a then eighty-one (81) year-old male, presented to Respondent's hospital for a scheduled Endoscopic Retrograde Cholangiopancreatography[2] ("ERCP") and was operated on by Respondent, a gastroenterologist.

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[1] To protect the privacy of all patients involved, patient names have not been included in this pleading. Respondent is aware of the identity of the patients referred to herein.

[2] Endoscopic retrograde cholangiopancreatography is a procedure used to diagnose and treat certain problems of the pancreatic ductal systems. Through an endoscope (a small, tubular, internally placed device, equipped with a small camera), the physician can see the inside of the stomach and duodenum. The physician can additionally inject dye into the ducts in the pancreas to assist imaging on radiographs.

Patient A was placed under anesthesia. An endoscopic sphincteronomy[3] was performed, followed by a removal of bile duct stones by way of papillotomy.[4] This was followed by a sphincteroplasty[5] and cytological brushing[6] of Patient A's biliary stricture.[7]

9. The procedure lasted until at or about 12:35 p.m. Prior to the completion of the procedure, Respondent failed to insert a stent into Patient A's pancreatic duct, which would have served as a precautionary measure for the purpose of widening the duct and preventing pancreatitis,[8] which is a potential complication associated with the procedure.

10. After Patient A awoke from his sedation, Respondent met with him and participated in a short, post-procedure consultation. During the consultation, Respondent failed to administer or prescribe Indomethacin[9] to Patient A, for the purpose of preventing pancreatic inflammation. At or about 2:40 p.m., Patient A was released from the hospital and returned to his residence.

11. After returning to his residence, Patient A began experiencing stomach pain and nausea. Between on or about November 17, 2011, at approximately 3:00 p.m., and on or about November 18, 2011, at approximately 6:00 a.m., Patient A vomited blood and/or a dark-colored material ("melenemesis") on three (3) separate occasions, and experienced rectal bleeding at least once.

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[3] Endoscopic sphincteronomy is a procedure where instruments and a camera are inserted through small incisions, in order to to allow a physician to correct a problem with the common bile duct, which is located between the pancreas and liver.

[4] Papillotomy is the operation of cutting the area at the convergence of the pancreatic duct and common bile duct in order to improve bile drainage, and allow the passage of stones from the common bile duct.

[5] A Sphincteroplasty is an artificial, permanent opening, created between the common bile duct and the duodenum.

[6] Cytological brushing is a procedure in which a small brush is used in conjunction with an endoscope, for the purpose of cell collection.

[7] A biliary stricture is an abnormal narrowing of the common bile duct.

[8] Pancreatitis is disease condition characterized by inflammation of the pancreas.

[9] Indomethacin is a non-steroidal anti-inflammatory drug. It is used to reduce swelling and to treat pain. Indomethacin is a prescribed drug pursuant to California Business and Professions Code section 4022.

12. On or about November 18, 2011, at approximately 7:45 a.m., Patient A's wife attempted to contact Respondent via telephone, in order to report Patient A's complications. She left a message with Respondent's physician's answering service. At or about 9:00 a.m., Respondent contacted Patient A and provided a telephonic consultation, after briefly speaking with Patient A's wife. During the conversation, Patient A reiterated to Respondent that he had experienced symptoms of abdominal pain, nausea and vomiting, rectal bleeding and melanemesis. Respondent advised Patient A that based on the nature of the procedure, it is likely that he would experience discomfort, and that he should begin feeling better soon. Respondent recommended that Patient A take Maalox,[10] eat soft foods, and avoid nonsteroidal anti-inflammatory drugs. Respondent additionally advised Patient A to contact him if his condition did not improve. During the course of the conversation, Respondent failed to order Patient A to present to a medical facility for further evaluation. The telephone calls from Patient A and his wife, with the description of symptoms of abdominal pain, nausea and vomiting, rectal bleeding, and melanemesis, required a good faith evaluation by a health care provider and hospital admission.

13. At approximately 12:09 p.m., Patient A telephonically contacted Respondent. Patient A advised Respondent that he had taken Pepto-Bismol[11] instead of Maalox, and asked if that was problematic. Respondent replied that there is no problem with taking Pepto-Bismol; however, it will turn his stool black. The conversation then ended. Again, based on the information provided from the previous telephone conversation, Respondent failed to order Patient A to a medical facility for evaluation.

14. On or about November 19, 2018, Patient A died from complications associated with the procedure performed by Respondent.

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[10] Maalox is the brand name for a calcium carbonate medication. It is a widely available non-prescription medicine, used as an antacid and for a variety of stomach related issues.

[11] Pepto-Bismol is the brand name for a calcium carbonate medication. It is a widely available non-prescription medicine, used as an antacid and for a variety of stomach related issues.

On or about November 21, 2011, the Coroner for the County of Sacramento performed an autopsy of Patient A, in which he concluded that the cause of Patient A's death was acute hemorrhagic pancreatitis[12] following ERCP, due to cholelithiasis[13] and choledocholithiasis.[14]

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

16. Respondent's Physician's and Surgeon's Certificate No. G 44261 is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that Respondent committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged hereinafter:

17. Complainant re-alleges paragraphs 6 through 14, and those paragraphs are incorporated by reference as if fully set forth therein.

18. Respondent committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged hereinafter:

A. Failing to place a stent, during and after Patient A's ERCP, in the pancreatic duct, and failing to provide a dose of indomethacin, in order to protect the patient from pancreatitis; and

B. Failing to refer Patient A to obtain a good faith evaluation by a health care provider and a hospital admission after receiving calls from Patient A and his wife with the descriptions of his symptoms of abdominal pain, nausea and vomiting, rectal bleeding, and melanemesis.

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[12] Acute hemorrhagic pancreatitis a condition caused by the destruction cells in the pancreatic tissue, by their own enzymes, resulting in a rupture of blood vessels in the pancreas and surrounding tissues.

[13] Cholelithiasis, also known as gallstones, is caused by hardened deposits of bile and increased cholesterol secretion.

[14] Choledocholithiasis is the presence of a gallstone in the common bile duct.

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 44261, issued to Frank S. Reynolds, M.D.;

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

3. Ordering Frank S. Reynolds, M.D. 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: November 15, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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