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

In the Matter of the Accusation Against: Emil A. Saify, M.D. Physician's and Surgeon's Certificate No. A 92733 Respondent.	Case No.: 800-2020-065009

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 June 24, 2022.

IT IS SO ORDERED: May 25, 2022.

MEDICAL BOARD OF CALIFORNIA

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

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **EMIL A. SAIFY, M.D.** **6038 Carlton Way, Number 404** **Hollywood, CA 90028** **Physician's and Surgeon's Certificate No. A 92733,** Respondent.	Case No. 800-2020-065009 OAH No. 2022010692 **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 Rebecca L. Smith, Deputy Attorney General.

2. Respondent Emil A. Saify, M.D. (Respondent) is represented in this proceeding by attorney Thomas F. McAndrews, whose address is 1230 Rosecrans Avenue, Suite 450, Manhattan Beach, California 90266.

3. On or about September 2, 2005, the Board issued Physician's and Surgeon's Certificate No. A 92733 to Respondent. That license was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2020-065009, and will expire on September 30, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2020-065009 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 December 17, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2020-065009 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 Accusation No. 800-2020-065009. 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 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 Accusation No. 800-2020-065009, 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 with respect to the charges and allegations in Accusation No. 800-2020-065009, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 92733 to disciplinary action.

11. ACKNOWLEDGMENT. Respondent acknowledges the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

12. 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

13. 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.

14. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2020-065009 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.

15. 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.

16. 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.

17. 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. A 92733 issued to Respondent Emil A. Saify, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions:

1. MEDICAL RECORD KEEPING COURSE – Condition Satisfied. Within sixty (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 fifteen (15) calendar days after successfully completing the course, or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

2. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within sixty (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. 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 Respondent did not successfully complete the clinical competence assessment program, Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

3. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within fifteen (15) calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

4. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $2,465.00 (two thousand four hundred sixty-five dollars and no cents). 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.

7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than ten (10) calendar days after the end of the preceding quarter.

8. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the

dates of departure and return.

9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than 30 calendar days and within fifteen (15) calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards' Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws;

General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

11. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

13. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within fifteen (15) calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

15. 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 Accusation No. 800-2020-065009 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, Thomas F. McAndrews. 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: 4-15-22

E. Saify M.D.
EMIL A. SAIFY, M.D.
Respondent

I have read and fully discussed with Respondent Emil A. Saify, 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: 4/15/22

Thomas McAndrews
THOMAS F. MCANDREWS
Attorney for Respondent

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ENDORSEMENT

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

DATED: 4/15/2022

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. 800-2020-065009

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

In the Matter of the Accusation Against:	Case No. 800-2020-065009
EMIL A. SAIFY, M.D. **6038 Carlton Way, Number 404** **Hollywood, CA 90028** **Physician's and Surgeon's Certificate No. A 92733,** Respondent.	**A C C U S A T I O N**

PARTIES

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

2. On or about September 2, 2005, the Board issued Physician's and Surgeon's Certificate Number A 92733 to Emil A. Saify, M.D. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2023, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following provisions of the California Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

5. Section 2227 of the Code 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:

(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.

6. 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.

7. 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

8. Business and Professions Code section 125.3 states that:

(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 licentiate 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.

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FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

9. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he engaged in repeated acts of negligence in the care and treatment of Patient 1.[1] The circumstances are as follows:

10. On March 29, 2017, Patient 1, a 31-year-old male, presented to Quality Care Surgery Center for a scheduled three-level laminectomy by neurosurgeon, Dr. S.A. Respondent was the anesthesiologist for the procedure.

11. Respondent performed an anesthesia preoperative evaluation of Patient 1.[2] The patient had a history of low back pain with radiation to his legs that had bothered him for many years. The patient's medications included lisinopril (blood pressure medication), gabapentin (nerve pain medication), and marijuana. Respondent noted that the results from the patient's preoperative laboratory studies were within normal limits. In addition, Patient 1's preoperative EKG performed on March 6, 2017 showed a normal sinus rhythm and the preoperative chest x-ray showed no acute cardiopulmonary process. The patient had no known drug allergies. Patient 1 was 6' 1" tall and weighed 265 pounds (160 kilograms) with a body mass index that was less than 40. Using the American Society of Anesthesiologists (ASA) physical status classification system, Respondent concluded that Patient 1 was status III[3] with a class III airway.[4]

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[1] The patient herein is referred to as Patient 1 in order to protect his privacy.

[2] Respondent's anesthesia records are handwritten, incomplete, largely illegible, and difficult to read.

[3] The ASA physical status classification system uses a scale of I to VI, with I being a healthy patient with minimal risks to VI being a declared brain-dead patient whose organs are being removed for donor purposes. ASA physical status III is a patient with severe systemic disease.

[4] Airway classification scale ranges from class I to IV. Class I is present when the soft palate, uvula, and pillars are visible. Class II is present when the soft palate and the uvula are visible. Class III is present when only the soft palate and base of the uvula are visible. Class IV is present when only the hard palate is visible.

12. Respondent's anesthesia record noted the anesthesia start time of 6:02 a.m., at which time Respondent administered two milligrams of midazolam,[5] 200 milligrams of propofol,[6] and 40 milligrams of rocuronium.[7]

13. Respondent documented an intra-operative time of 6:15 a.m. and that he intubated Patient 1 on the first attempt with placement of a 7.0 endotracheal tube secured at 20 cm. The placement was noted to have been confirmed with the presence of End-Tidal CO2.[8] Respondent did not document whether the End-Tidal CO2 was seen continuously or if there was a delay in ventilating the patient.

14. A late-entry nursing note by Nurse L.L. dated March 29, 2017 and timed at 3:00 p.m.,[9] reflects that Patient 1 was taken to the operative room at 6:15 a.m., with monitors attached and functioning well and that at 6:28 a.m., Patient 1 was intubated. Nurse L.L. noted that at 6:28 a.m., Respondent stated that they were ready to turn the patient to a prone position once the pulse oximetry reading came back on. No reading was detected. Respondent assessed the patient and the endotracheal tube. Respondent then re-intubated the patient using a Glidescope for better visualization. Once satisfied with the position, Respondent inflated the cuff. The patient's chest was noted to be rising and auscultation was performed using stethoscope. A second anesthesia monitor was brought into the operating room and Nurse L.L. requested that a portable oxygen saturation [monitor] be brought into the operating room.[10]

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[5] Midazolam is used to produce sleepiness or drowsiness and relieve anxiety before surgery. It is also an amnesiac.

[6] Propofol slows down brain and nervous system activity and is used to produce sleep before and during surgery.

[7] Rocoronium relaxes skeletal muscles and is used with general anesthesia medicines for intubation.

[8] End Tidal CO2 is the level of carbon dioxide that is released at the end of an exhaled breath and reflects the patient's ventilator status.

[9] All nursing progress notes by Nurse L.L. for care from 6:15 a.m. through 8:35 a.m. on March 29, 2017, were late entries prepared on March 29, 2017 at 3:00 p.m.

[10] There is no documentation by Respondent as to why a second anesthesia monitor was necessary or why a portable pulse oximeter was requested.

15. Nurse L.L.'s nursing notes reflects that at 6:33 a.m., there was a skin color change on the patient's face and nailbeds. At that time, Nurse L.L. requested that Nurse N.M. leave the operating room to ask Dr. K.C., another anesthesiologist, for assistance. At that time, Respondent administered intravenous medication while pushing down with three fingers on the patient's chest while Dr. S.A. and Nurse L.L. checked for peripheral pulses.

16. There is no documentation by Respondent reflecting the change in the patient's vital signs and the timing of those changes.[11]

17. Nurse L.L.'s nursing notes document that at 6:34 a.m., Dr. K.C. entered the operating room and checked for pulses. Dr. K.C. stated that there was no pulse and began chest compressions. Dr. K.C. then called a Code Blue and requested crash cart. Respondent administered epinephrine.[12] Nurse L.L. noted that at 6:36 a.m., the cardiopulmonary resuscitation (CPR) was interrupted for a pulse check. No pulse was felt and CPR resumed. At 6:38 a.m., the patient had a pulse and CPR was stopped. Patient 1's skin color was pink and his oxygen saturations were at 100%. His cardiac rhythm was noted to be tachycardic.[13]

18. After the resuscitation and code blue, the planned surgical procedure was aborted.

19. The standard of care requires that a physician document all information pertinent to the care and treatment being provided to the patient.

20. There was a lack of documentation in the anesthesia record regarding blood pressure, pulse oximetry values, End-Tidal CO2, or heart rate changes associated with Patient 1's cardiac arrest. Respondent committed a simple departure from the standard of care in failing to document the vital sign changes associated with the cardiac arrest.

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[11] Respondent prepared a largely illegible and incomplete late progress note at 9:30 a.m. on March 29, 2017, which reflects that following induction, the patient had "saturation 99%, blood pressure 140/70, heart rate is 90, and heart rate goes up to 160, sinus brady in the 30s, unable to get saturation or a pulse, asystole...."

[12] Epinephrine increases arterial blood pressuring and coronary perforation when administered during cardiopulmonary resuscitation (CPR) to reverse cardiac arrest.

[13] A tachycardic response is a heart rate over 100 beats per minute.

21. Nurse L.L. further noted that at 6:39 a.m., the patient continued to be supported with mechanical ventilation and that Respondent continued to monitor him. At 7:10 a.m., Respondent extubated the patient and requested that no ambulance be called yet.[14] At 7:14 a.m., the patient was transferred from the operating room to the post anesthesia care unit (PACU).

22. Nurse L.L. nursing record reflects that she was walking through the PACU at 8:08 a.m. and observed that the patient was not awake. She asked nurse N.M. if the ambulance had been called yet. When Nurse L.L. was told that an ambulance had not been called, she called Dr. S.A., the head of anesthesia, to request that the patient be evaluated. Dr. S.A. instructed Nurse L.L. to have Dr. K.C. evaluate the patient.

23. Dr. K.C. was called to the PACU from an operating room to evaluate the patient. Upon completion of her evaluation, Dr. K.C. recommended that Patient 1 be transferred to the hospital. At 8:20 a.m., the PACU nurse called 911 to have the patient transferred to the hospital. In the PACU, the patient was breathing rapidly and not fully waking up. At 8:35 a.m., Respondent re-intubated Patient 1.

24. There was no documentation by Respondent regarding his delay in ordering the transfer of the patient to a higher level of care or Dr. K.C.'s recommendation that the patient be transferred.

25. After a cardiac arrest at an outpatient surgery center, the standard of care requires that the physician transfer the patient to a hospital equipped to monitor and evaluate the patient at a higher level of care, as soon as possible.

26. Respondent committed a simple departure from the standard of care in not immediately transferring the patient to a hospital with a higher level of care following the cardiac arrest in the operating room.

27. At 8:45 a.m., the patient was transferred to Glendale Memorial Hospital by paramedics. The hospital transfer form reflects that the clinical indicators for transfer were respiratory distress and labored breathing. At Glendale Memorial Hospital, Patient 1 was

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[14] Respondent does not document why he did not want an ambulance called at that time.

diagnosed with an anoxic brain injury. He remained hospitalized until April 9, 2017, at which time he was transferred to a long-term care facility.

28. Respondent's acts and/or omissions as set forth in paragraphs 8 through 25, above, whether proven individually, jointly, or in any combination thereof, constitute repeated acts of negligence pursuant to section 2234, subdivision (c), of the Code. Therefore, cause for discipline exists.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

29. Respondent's license 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 1. The circumstances are as follows:

30. The allegations in the First Cause for Discipline above are incorporated herein by reference as if fully set forth.

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 92733, issued to Respondent Emil A. Saify, M.D.;

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

3. Ordering Respondent Emil A. Saify, 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

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

DATED: DEC 17 2021

Reji Varghese
Deputy Director

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

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