

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

**In the Matter of the Accusation
Against:**

Jesus Herrera Lao, M.D.

**Physician's and Surgeon's
Certificate No. A 72729**

Case No.: 800-2019-062250

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 October 3, 2022.

IT IS SO ORDERED: September 2, 2022.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
4 State Bar No. 241559
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9403
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **JESUS HERRERA LAO, M.D.**
16 **555 W Country Club Ln, Suite C #181**
Escondido, CA 92026-1226

17 **Physician's and Surgeon's Certificate**
18 **No. A 72729**

19 Respondent.

Case No. 800-2019-062250

OAH No. 2021110670

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
25 California (Board). He brought this action solely in his official capacity and is represented in this
26 matter by Rob Bonta, Attorney General of the State of California, by Tessa L. Heunis, Deputy
27 Attorney General.

28 *////*

2. Respondent Jesus Herrera Lao, M.D. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, Esq., whose address is: 5440 Trabuco Road, Irvine, CA 92620.

3. On or about July 31, 2000, the Board issued Physician's and Surgeon's Certificate No. A 72729 to 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. 800-2019-062250 and will expire on October 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-062250 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 October 12, 2021. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2019-062250 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2019-062250. Respondent has also carefully read, fully discussed with his counsel, and fully 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. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

////

////

1 **CULPABILITY**

2 8. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 800-2019-062250 and that his Physician's and Surgeon's Certificate No. A 72729 is therefore
5 subject to discipline.

6 9. Respondent agrees that if he ever petitions for early termination or modification of
7 probation, or if an accusation and/or petition to revoke probation is filed against him before the
8 Medical Board of California, all of the charges and allegations contained in Accusation No. 800-
9 2019-062250 shall be deemed true, correct and fully admitted by Respondent for purposes of any
10 such proceeding or any other licensing proceeding involving Respondent in the State of
11 California or elsewhere.

12 10. Respondent agrees that his Physician's and Surgeon's Certificate No. A 72729 is
13 subject to discipline, and he agrees to be bound by the Board's imposition of discipline as set
14 forth in the Disciplinary Order below.

15 **CONTINGENCY**

16 11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
17 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
18 submitted to the Board for its consideration in the above-entitled matter and, further, that the
19 Board shall have a reasonable period of time in which to consider and act on this Stipulated
20 Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully
21 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
22 prior to the time the Board considers and acts upon it.

23 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
24 and void and not binding upon the parties unless approved and adopted by the Board, except for
25 this paragraph, which shall remain in full force and effect. Respondent fully understands and
26 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
27 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
28 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify

1 the Board, any member thereof, and/or any other person from future participation in this or any
2 other matter affecting or involving Respondent. In the event that the Board does not, in its
3 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
4 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
5 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
6 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
7 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any
8 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
9 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

10 **ADDITIONAL PROVISIONS**

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

14 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
15 be an integrated writing representing the complete, final and exclusive embodiment of the
16 agreements of the parties in the above-entitled matter.

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

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 72729 issued
22 to Respondent Jesus Herrera Lao, M.D. is revoked. However, the revocations are stayed and
23 Respondent is placed on probation for two (2) years from the effective date of the Decision on the
24 terms and conditions below. This Order supersedes the probationary order in Case No. 800-2017-
25 036151:

26 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
27 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
28 for its prior approval educational program(s) or course(s) which shall not be less than 60 hours

1 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
2 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
3 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
4 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
5 completion of each course, the Board or its designee may administer an examination to test
6 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 85
7 hours of CME of which 60 hours were in satisfaction of this condition.

8 2. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
9 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
10 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
11 licenses are valid and in good standing, and who are preferably American Board of Medical
12 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
13 relationship with Respondent, or other relationship that could reasonably be expected to
14 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
15 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
16 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

17 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
18 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
19 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
20 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
21 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
22 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
23 signed statement for approval by the Board or its designee.

24 Within 60 calendar days of the effective date of this Decision, and continuing throughout
25 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
26 make all records available for immediate inspection and copying on the premises by the monitor
27 at all times during business hours and shall retain the records for the entire term of probation.

28 ////

1 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
2 date of this Decision, Respondent shall receive a notification from the Board or its designee to
3 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
4 shall cease the practice of medicine until a monitor is approved to provide monitoring
5 responsibility.

6 The monitor(s) shall submit a quarterly written report to the Board or its designee which
7 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
8 are within the standards of practice of medicine, and whether Respondent is practicing medicine
9 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
10 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
11 preceding quarter.

12 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
13 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
14 name and qualifications of a replacement monitor who will be assuming that responsibility within
15 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
16 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
17 notification from the Board or its designee to cease the practice of medicine within three (3)
18 calendar days after being so notified. Respondent shall cease the practice of medicine until a
19 replacement monitor is approved and assumes monitoring responsibility.

20 In lieu of a monitor, Respondent may participate in a professional enhancement program
21 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
22 review, semi-annual practice assessment, and semi-annual review of professional growth and
23 education. Respondent shall participate in the professional enhancement program at Respondent's
24 expense during the term of probation.

25 3. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
26 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
27 Chief Executive Officer at every hospital where privileges or membership are extended to
28 Respondent, at any other facility where Respondent engages in the practice of medicine,

1 including all physician and locum tenens registries or other similar agencies, and to the Chief
2 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
3 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
4 calendar days.

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

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

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

12 6. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
13 ordered to reimburse the Board its costs of investigation and enforcement since January 1, 2022,
14 including, but not limited to, expert review, amended accusations, legal reviews, joint
15 investigations, and subpoena enforcement, as applicable, in the amount of \$414.25 (four hundred
16 fourteen dollars and twenty-five cents). Costs shall be payable to the Medical Board of
17 California. Failure to pay such costs shall be considered a violation of probation.

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

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

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

25 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
26 of the preceding quarter.

27 ////

28 ////

1 8. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

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

10 Place of Practice

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

14 License Renewal

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

17 Travel or Residence Outside California

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

21 In the event Respondent should leave the State of California to reside or to practice
22 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
23 departure and return.

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

27 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
28 its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine as defined in Business and
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If
5 Respondent resides in California and is considered to be in non-practice, Respondent shall
6 comply with all terms and conditions of probation. All time spent in an intensive training
7 program which has been approved by the Board or its designee shall not be considered non-
8 practice and does not relieve Respondent from complying with all the terms and conditions of
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
10 on probation with the medical licensing authority of that state or jurisdiction shall not be
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
12 period of non-practice.

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

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

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

20 Periods of non-practice for a Respondent residing outside of California will relieve
21 Respondent of the responsibility to comply with the probationary terms and conditions with the
22 exception of this condition and the following terms and conditions of probation: Obey All Laws;
23 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
24 Controlled Substances; and Biological Fluid Testing..

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

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

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

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

23 15. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
24 a new license or certification, or petition for reinstatement of a license, by any other health care
25 licensing action agency in the State of California, all of the charges and allegations contained in
26 Accusation No. 800-2019-062250 shall be deemed to be true, correct, and admitted by
27 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
28 restrict license.

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Raymond J. McMahon, Esq. I fully understand the stipulation and
4 the effect it will have on my Physician's and Surgeon's Certificate No. A 72729. I enter into this
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
6 to be bound by the Decision and Order of the Medical Board of California.

7
8 DATED: 01/17/2022

JESUS HERRERA LAO, M.D.
Respondent

10 I have read and fully discussed with Respondent Jesus Herrera Lao, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: January 27, 2022

RAYMOND J. MCMAHON, ESQ.
Attorney for Respondent

15
16 ENDORSEMENT

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

19
20 DATED: January 28, 2022

Respectfully submitted,

21 ROB BONTA
Attorney General of California
22 MATTHEW M. DAVIS
Supervising Deputy Attorney General

23 Tessa L. Heunis

24 TESSA L. HEUNIS
Deputy Attorney General
25 Attorneys for Complainant
26
27
28

Exhibit A

Accusation No. 800-2019-062250

1 ROB BONTA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 TESSA L. HEUNIS
Deputy Attorney General
4 State Bar No. 241559
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9403
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2019-062250

14 **JESUS HERRERA LAO, M.D.**
15 **555 W. Country Club Ln, Ste. C #181**
Escondido, CA 92026-1226

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 72729,**

18 Respondent.

19
20 **PARTIES**

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

24 2. On or about July 31, 2000, the Board issued Physician's and Surgeon's Certificate
25 Number A 72729 to Jesus Herrera Lao, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will
27 expire on October 31, 2023, unless renewed.

28 ////

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 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.

...

5. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes ...

...

STATUTORY PROVISIONS

6. 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.

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

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

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

8 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
9 medical review or advisory conferences, professional competency examinations,
10 continuing education activities, and cost reimbursement associated therewith that are
11 agreed to with the board and successfully completed by the licensee, or other matters
12 made confidential or privileged by existing law, is deemed public, and shall be made
13 available to the public by the board pursuant to Section 803.1.

14 7. Section 2234 of the Code, states:

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

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

20 (b) Gross negligence.

21 ...

22 8. Section 4021 of the Code, states:

23 "Controlled substance" means any substance listed in Chapter 2 (commencing
24 with Section 11053) of Division 10 of the Health and Safety Code.

25 9. Section 4022 of the Code, states:

26 "Dangerous drug" ... means any drug ... unsafe for self-use in humans or
27 animals, and includes the following:

28 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

...

(c) Any other drug ... that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

////

////

FACTUAL ALLEGATIONS

10. At all relevant times, Respondent was a board-certified specialist in physical medicine and rehabilitation, practicing pain management. Approximately once per week, he performed procedures as a contract physician at an outpatient surgery center.

11. In February 2017, Respondent was contracted to place a spinal cord stimulator trial in Patient A¹ at the surgery center. This procedure had to be rescheduled since Patient A developed pneumonia and was admitted to hospital.

12. On or about the morning of March 20, 2017, the day of the rescheduled procedure, Respondent met Patient A in the waiting room of the surgery center, where they spoke for around five to ten minutes. Patient A told Respondent that she had taken her prescribed Percocet² at an undisclosed time within the preceding twenty-four (24) hours and had eaten breakfast. Patient A also mentioned that she was experiencing some nausea due to anxiety over the procedure.

13. Respondent prescribed Patient A a 2 mg Xanax³ tablet approximately fifteen (15) minutes before the procedure.

14. The procedure was performed under Fluoroscopic guidance with local anesthetic.

15. Patient A presented with significant comorbidities including obesity, history of pneumonia, high degree of anxiety, and non-fasting. In addition, she had taken prescribed narcotics and benzodiazepines.

16. The procedure was performed with Patient A positioned prone.

17. Patient A's vital signs were not monitored or recorded during the procedure, which lasted approximately forty (40) minutes.

18. During the procedure, Patient A initially responded but was then noted to be snoring. There was no encouragement to her to communicate with Respondent or the medical team.

¹ The identity of Patient A is known to Respondent but not disclosed herein for patient privacy.

² Percocet is a brand name for oxycodone and acetaminophen, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

³ Xanax is a brand name for alprazolam (a benzodiazepine), a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

1 19. After the procedure, Respondent went to dictate his procedure. While the dressings
2 were being applied by the medical assistant, Patient A was noted to be in a pool of vomitus with
3 solid food particles soiling the gown, her face, and the floor.

4 20. Respondent was notified and he evaluated Patient A. No pulse or breathing was
5 detected in Patient A.

6 21. Suction equipment was not immediately available. Respondent put Patient A supine
7 with assistance and started chest compressions. Bag and mask ventilation were commenced and
8 emergency medical services (EMS) contacted.

9 22. After approximately fifteen (15) minutes, EMS arrived and began Advanced Cardiac
10 Life Support treatment. Patient A was transported to Sharp Memorial Hospital in full cardiac
11 arrest. Spontaneous circulation returned but Patient A never regained consciousness.

12 **CAUSE FOR DISCIPLINE**

13 **(Gross Negligence)**

14 23. Respondent Jesus Herrera Lao, M.D. is subject to disciplinary action under sections
15 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed
16 gross negligence in his care and treatment of Patient A, in performing an elective spinal
17 procedure in the presence of multiple patient risk factors, while including the use of sedation and
18 the absence of monitoring of her vital signs (cardiopulmonary status) during the procedure.

19 **DISCIPLINARY CONSIDERATIONS**

20 24. To determine the degree of discipline, if any, to be imposed on Respondent Jesus
21 Herrera Lao, M.D., Complainant alleges that on or about July 16, 2020, in a disciplinary action
22 titled In the Matter of the Accusation Against Jesus Herrera Lao, M.D., before the Board in Case
23 Number 8002017036151, Respondent's license was revoked but stayed and placed on probation
24 for thirty-five months from the effective date of the Decision for repeated negligent acts, failure
25 to maintain adequate and accurate records, and general unprofessional conduct. That Decision is
26 now final and is incorporated by reference as if fully set forth herein.

27 ////

28 ////

1 PRAYER

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


4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 72729,
5 issued to Respondent Jesus Herrera Lao, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Jesus Herrera Lao, M.D.'s
7 authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Respondent Jesus Herrera Lao, M.D., if placed on probation, to pay the
9 Board the costs of probation monitoring; and

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

11
12 DATED: OCT 12 2021

13 
14 WILLIAM PRASIFKA
15 Executive Director
16 Medical Board of California
17 Department of Consumer Affairs
18 State of California
19 Complainant