

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

In the Matter of the First Amended
Accusation Against:

Owen Rowe McIvor, M.D.

Physician's and Surgeon's
Certificate No. G 67842

Respondent.

Case No.: 800-2019-057646

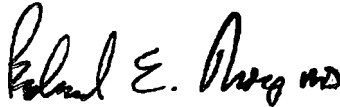
DECISION

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 May 10, 2023.

IT IS SO ORDERED: April 10, 2023.

MEDICAL BOARD OF CALIFORNIA



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

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Attorney General of California
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Supervising Deputy Attorney General
3 ROBERT W. LINCOLN
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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

OWEN ROWE MCIVOR, M.D.
2 W. Fern Ave.
Redlands, CA 92373-5916

Physician's and Surgeon's Certificate No.
G 67842

Respondent.

Case No. 800-2019-057646
OAH No. 2021110553

**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. Reji Varghese (Complainant) is the Interim 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 Robert W. Lincoln, Deputy Attorney General.

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1 **ADDITIONAL PROVISIONS**

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

5 14. The parties understand and agree that Portable Document Format (PDF) and
6 facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and
7 facsimile signatures thereto, shall have the same force and effect as the originals.

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

11 **DISCIPLINARY ORDER**

12 IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 67842 issued to
13 Respondent OWEN ROWE MCIVOR, M.D., is revoked. However, the revocation is stayed and
14 Respondent is placed on probation for three (3) years from the effective date of Decision on the
15 following terms and conditions:

16 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
17 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
18 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
19 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
20 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
21 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
22 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
23 completion of each course, the Board or its designee may administer an examination to test
24 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
25 hours of CME of which 40 hours were in satisfaction of this condition.

26 2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the
27 effective date of this Decision, Respondent shall enroll in a course in medical record keeping
28 approved in advance by the Board or its designee. Respondent shall provide the approved course

1 provider with any information and documents that the approved course provider may deem
2 pertinent. Respondent shall participate in and successfully complete the classroom component of
3 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
4 successfully complete any other component of the course within one (1) year of enrollment. The
5 medical record keeping course shall be at Respondent's expense and shall be in addition to the
6 Continuing Medical Education (CME) requirements for renewal of licensure.

7 A medical record keeping course taken after the acts that gave rise to the charges in the
8 First Amended Accusation, but prior to the effective date of the Decision may, in the sole
9 discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the
10 course would have been approved by the Board or its designee had the course been taken after the
11 effective date of this Decision.

12 Respondent shall submit a certification of successful completion to the Board or its
13 designee not later than 15 calendar days after successfully completing the course, or not later than
14 15 calendar days after the effective date of the Decision, whichever is later.

15 3. CLINICAL COMPETENCE ASSESSMENT PROGRAM: Within 60 calendar
16 days of the effective date of this Decision, respondent shall enroll in a clinical competence
17 assessment program approved in advance by the Board or its designees. Respondent shall
18 successfully complete the program not later than six (6) months after Respondent's initial
19 enrollment unless the Board or its designee agrees in writing to an extension of that time.

20 The program shall consist of a comprehensive assessment of Respondent's physical and
21 mental health and the six general domains of clinical competence as defined by the Accreditation
22 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
23 Respondent's current or intended area of practice. The program shall take into account data
24 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
25 Accusation(s), and any other information that the Board or its designee deems relevant. The
26 program shall require Respondent's on-site participation for a minimum of 3 and no more than 5
27 days as determined by the program for the assessment and clinical education evaluation.
28 Respondent shall pay all expenses associated with the clinical competence assessment program.

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

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

10 4. SOLO PRACTICE PROHIBITION: Respondent is prohibited from engaging in
11 the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
12 where: 1) Respondent merely shares office space with another physician but is not affiliated for
13 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
14 location.

15 If Respondent fails to establish a practice with another physician or secure employment in
16 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
17 Respondent shall receive a notification from the Board or its designee to cease the practice of
18 medicine within three (3) calendar days after so notified. The Respondent shall not resume
19 practice until an appropriate practice setting is established.

20 If, during the course of the probation, the Respondent's practice setting changes and
21 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent
22 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
23 Respondent fails to establish a practice with another physician or secure employment in an
24 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
25 shall receive a notification from the Board or its designee to cease the practice of medicine within
26 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
27 appropriate practice setting is established.

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1 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
2 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
3 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
4 extended to Respondent, at any other facility where Respondent engages in the practice of
5 medicine, including all physician and locum tenens registries or other similar agencies, and to the
6 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
7 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
8 15 calendar days.

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

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

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

16 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
17 ordered to reimburse the Board its costs of investigation and enforcement in the amount of two
18 thousand seven hundred forty-eight dollars and seventy-five cents (\$2,748.75). Costs shall be
19 payable to the Medical Board of California. Failure to pay such costs shall be considered a
20 violation of probation.

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

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

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

28 Respondent shall submit quarterly declarations not later than 10 calendar days after the end

1 of the preceding quarter.

2 10. GENERAL PROBATION REQUIREMENTS.

3 Compliance with Probation Unit

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

5 Address Changes

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

11 Place of Practice

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

15 License Renewal

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

18 Travel or Residence Outside California

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

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

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

28 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board

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

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

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

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

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

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

1 be fully restored.

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

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

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

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael D. Gonzalez, Esq. 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: 3-23-2023 Owen Rowe McIvor, M.D.
OWEN ROWE MCIVOR, M.D.
Respondent

I have read and fully discussed with Respondent Owen Rowe McIvor, 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: 3-23-23 [Signature]
MICHAEL D. GONZALEZ, Esq.
Attorney for Respondent

ENDORSEMENT

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

DATED: 3/23/2023

Respectfully submitted,
ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

/s. Robert W. Lincoln

ROBERT W. LINCOLN
Deputy Attorney General
Attorneys for Complainant

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9

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

13 In the Matter of the First Amended Accusation
14 Against:

Case No. 800-2019-057646

15 **OWEN ROWE MCIVOR, M.D.**
16 **2 W. Fern Avenue**
Redlands, CA 92373-5916,

FIRST AMENDED ACCUSATION

17 **Physician's and Surgeon's Certificate**
18 **No. G 67842,**

Respondent.

19
20 **PARTIES**

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

24 2. On or about January 8, 1990, the Medical Board issued Physician's and Surgeon's
25 Certificate No. G 67842 to Owen Rowe McIvor, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on March 31, 2023, unless renewed.

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1 **JURISDICTION**

2 3. This First Amended Accusation, which supersedes the Accusation filed on October
3 13, 2021, is brought before the Board, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
7 one year, placed on probation and required to pay costs of probation monitoring, or such other
8 action taken in relation to discipline as the board deems proper.

9 5. Section 2234 of the Code, states:

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

13 ...

14 (b) Gross negligence.

15 (c) Repeated negligent acts. To be repeated, there must be two or more negligent
16 acts or omissions. An initial negligent act or omission followed by a separate and distinct
17 departure from the applicable standard of care shall constitute repeated negligent acts.

18 ...

19 6. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
20 adequate and accurate records relating to the provision of services to their patients
21 constitutes unprofessional conduct.

22 **COST RECOVERY**

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

1 **FIRST CAUSE OF DISCIPLINE**

2 **(Gross Negligence)**

3 8. Respondent has subjected his Physician's and Surgeon's Certificate No. G 67842 to
4 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
5 the Code, in that he was grossly negligent in his care and treatment of Patient A¹, as more
6 particularly alleged hereafter:

7 9. On or about December 11, 2017, Respondent assessed Patient A for hand surgery.
8 Respondent believed that Patient A's surgery would be a straight forward trigger finger release
9 surgery². Respondent believed that Patient A did not need a subspecialist hand surgeon to
10 perform the surgery.

11 10. On or about February 8, 2018, Respondent performed surgery on Patient A.
12 Respondent initially performed a release of the A1 pulley³ of the left ring finger under local
13 anesthesia. Patient A was able to flex his fingers, but was not able to make a fist.

14 11. In the recovery room, Patient A demonstrated a persistent triggering of the finger.
15 Respondent operated upon Patient A again, performing a more extensive release and incision
16 upon Patient A's finger. Respondent observed the "popping" was occurring close to the PIP joint
17 and Patient A's finger was triggering at the A2 pulley⁴. This operation resolved the triggering.

18 12. On or about February 16, 2018, Patient A had a follow-up appointment with
19 Respondent where he noted that he was having some stiffness in his hand, still lacked full flexion,
20 and could not make a full fist with the middle, ring, and small fingers.

21 13. Respondent's history and physical examination of Patient A were inadequate and as a
22 result, he did not recognize that Patient A had undergone a previous left ring trigger release.
23 Respondent did not appropriately refer Patient A to a hand surgeon for performance of a more

24 ¹ To protect the privacy of the patient involved, the patient's name has not been included in this pleading.
Respondent is aware of the identity of the patient referred to herein.

25 ² The procedure is to release the A1 pulley that is blocking tendon movement so the flexor tendon
26 can glide more easily through the tendon sheath. Typically, the procedure is done in an outpatient
setting with an injection of local anesthesia to numb the area for surgery.

27 ³ The pulley at the base of the finger is called the "A1 pulley." This is the pulley that is most often
involved in trigger finger.

28 ⁴ The A2 is one of five pulleys in each finger that holds the flexor tendon tight up against the bone.

1 complex trigger finger release revision with removal of a slip of the flexor digitorum superficialis
2 tendon⁵.

3 14. Respondent performed the wrong surgery for triggering that was noted at the A2
4 pulley. The correct surgery in this circumstance would have been to remove the ulnar slip of the
5 flexor digitorum superficialis tendon.

6 15. Respondent committed gross negligence in his care and treatment of Patient A, which
7 included, but was not limited to, the following:

8 A. Performing the incorrect surgery for triggering that was noted at the A2 pulley on
9 Patient A's hand, which resulted in Patient A needing additional surgery; and

10 B. Performing an inadequate history and physical examination and as a result, failing to
11 refer Patient A appropriately to a hand surgeon for performance of a more complex trigger finger
12 release revision with removal of a slip of the flexor digitorum superficialis tendon.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Repeated Negligent Acts)**

15 16. Respondent has further subjected his Physician's and Surgeon's Certificate No.
16 G 67842 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
17 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
18 treatment of Patient A, as more particularly alleged in paragraphs 8 through 15, above, which are
19 hereby incorporated by reference and reallaged as if fully set forth herein.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain Adequate and Accurate Records)**

22 17. Respondent has further subjected his Physician's and Surgeon's Certificate No.
23 G 67842 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
24 Code, in that Respondent failed to maintain adequate records regarding his care and treatment of
25 Patient A, as more particularly alleged in paragraphs 8 through 15, above, which are hereby
26 incorporated by reference and reallaged as if fully set forth herein.

27 ⁵ The flexor digitorum superficialis courses along the volar aspect of the forearm, superficial to the
28 flexor digitorum profundus and flexor pollicis longus muscles, and deep to the palmaris longus,
flexor carpi radialis, flexor carpi ulnaris, and pronator teres.

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FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)


18. Respondent has further subjected his Physician's and Surgeon's Certificate No. G 67842 to disciplinary action under sections 2227 and 2234, as defined by section 2234, in that he engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 8 through 15, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 67842, issued to OWEN ROWE MCIVOR, M.D.;
2. Revoking, suspending or denying approval of OWEN ROWE MCIVOR, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering OWEN ROWE MCIVOR, M.D., if placed on probation, to pay the Board the costs of probation monitoring;
4. Ordering OWEN ROWE MCIVOR, M.D., to pay the Medical Board of California the costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
5. Taking such other and further action as deemed necessary and proper.

DATED: FEB 22 2022



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

SD2021801287