

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

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

Jacob Eric Tauber, M.D.

**Physician's and Surgeon's
Certificate No. G 41526**

Case No.: 800-2018-046154

Respondent.

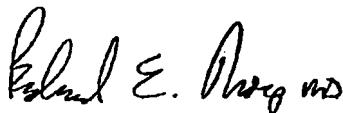
DECISION

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 June 16, 2023.

IT IS SO ORDERED: May 18, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 MARSHA E. BARR-FERNANDEZ
Deputy Attorney General
4 State Bar No. 200896
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6249
6 Facsimile: (916) 731-2117
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

13 **JACOB ERIC TAUBER, M.D.**
501 South First Avenue, Suite L
Arcadia, CA 91006

14 **Physician's and Surgeon's Certificate**
15 **No. G 41526,**

16 Respondent.

Case No. 800-2018-046154

OAH No. 2023020138

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

19 **PARTIES**

20 1. Reji Varghese (Complainant) is the Interim Executive Director of the Medical Board
21 of California (Board). He brought this action solely in his official capacity and is represented in
22 this matter by Rob Bonta, Attorney General of the State of California, by Marsha E. Barr-
23 Fernandez, Deputy Attorney General.

24 2. Respondent Jacob Eric Tauber, M.D. (Respondent) is represented in this proceeding
25 by attorney Seth Weinstein, Esq., whose address is: 16133 Ventura Blvd., Suite 700, Encino, CA
26 91436.

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3. On or about February 11, 1980, the Board issued Physician's and Surgeon's Certificate No. G 41526 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. 800-2018-046154, and will expire on December 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-046154 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 January 31, 2023. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-046154 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. 800-2018-046154. 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 admits the truth of each and every charge and allegation in Accusation No. 800-2018-046154.

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10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. 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. 800-2018-046154 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.

13. 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.

14. 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:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 41526 issued to Respondent JACOB ERIC TAUBER, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years from the effective date of the Decision and Order on the following terms and conditions:

1. **ACTUAL SUSPENSION**. As part of probation, Respondent is suspended from the practice of medicine for thirty (30) days, beginning the sixteenth (16th) day after the effective date of this decision.

2. **PROFESSIONALISM PROGRAM (ETHICS COURSE)**. Within sixty (60) calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program 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 program would have been approved by the Board or its designee had the program 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 program or not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

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

10 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
11 and Accusation(s), and a proposed monitoring plan. Within fifteen (15) calendar days of receipt
12 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a
13 signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
14 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
15 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
16 with the signed statement for approval by the Board or its designee.

17 Within sixty (60) calendar days of the effective date of this Decision, and continuing
18 throughout probation, Respondent's billing shall be monitored by the approved monitor.
19 Respondent shall make all records available for immediate inspection and copying on the
20 premises by the monitor at all times during business hours and shall retain the records for the
21 entire term of probation.

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

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

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

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

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

25 If Respondent fails to establish a practice with another physician or secure employment in
26 an appropriate practice setting within sixty (60) calendar days of the effective date of this

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1 Decision, Respondent shall receive a notification from the Board or its designee to cease the
2 practice of medicine within three (3) calendar days after being so notified. The Respondent shall
3 not resume practice until an appropriate practice setting is established.

4 If, during the course of the probation, the Respondent's practice setting changes and the
5 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
6 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
7 If Respondent fails to establish a practice with another physician or secure employment in an
8 appropriate practice setting within sixty (60) calendar days of the practice setting change,
9 Respondent shall receive a notification from the Board or its designee to cease the practice of
10 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
11 practice until an appropriate practice setting is established.

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

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

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

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

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1 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
2 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
3 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena
4 enforcement, as applicable, in the amount of \$5,722.50 (five thousand seven hundred twenty-two
5 dollars and fifty cents). Costs shall be payable to the Medical Board of California. Failure to pay
6 such costs shall be considered a violation of probation.

7 Payment must be made in full within thirty (30) calendar days of the effective date of the
8 Order, or by a payment plan approved by the Medical Board of California. Any and all requests
9 for a payment plan shall be submitted in writing by Respondent to the Board. Failure to comply
10 with the payment plan shall be considered a violation of probation.

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

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

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

18 10. GENERAL PROBATION REQUIREMENTS.

19 Compliance with Probation Unit

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

21 Address Changes

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

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1 Place of Practice

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

5 License Renewal

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

8 Travel or Residence Outside California

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

12 In the event Respondent should leave the State of California to reside or to practice
13 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
14 dates of departure and return.

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

18 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
19 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
20 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
21 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine
22 as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours
23 in a calendar month in direct patient care, clinical activity or teaching, or other activity as
24 approved by the Board. If Respondent resides in California and is considered to be in non-
25 practice, Respondent shall comply with all terms and conditions of probation. All time spent in
26 an intensive training program which has been approved by the Board or its designee shall not be
27 considered non-practice and does not relieve Respondent from complying with all the terms and
28 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 eighteen (18) calendar months, Respondent shall successfully complete the Federation of State Medical Boards's 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; and Quarterly Declarations.

13. 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. This term does not include cost recovery, which is due within thirty (30) calendar days of the effective date of the Order, or by a payment plan approved by the Medical Board and timely satisfied. Upon successful completion of probation, Respondent's certificate shall be fully restored.

14. 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.

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

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

16 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
17 a new license or certification, or petition for reinstatement of a license, by any other health care
18 licensing action agency in the State of California, all of the charges and allegations contained in
19 Accusation No. 800-2018-046154 shall be deemed to be true, correct, and admitted by
20 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
21 restrict license.

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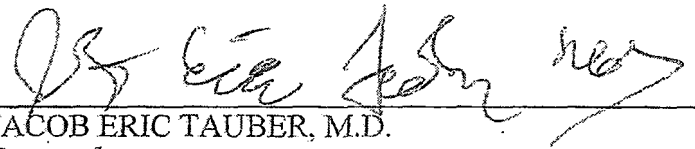
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Seth Weinstein, 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: 3/31/2023


JACOB ERIC TAUBER, M.D.
Respondent

I have read and fully discussed with Respondent Jacob Eric Tauber, 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: 04-02-2023


SETH WEINSTEIN, 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: April 3, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General


MARSHA E. BARR-FERNANDEZ
Deputy Attorney General
Attorneys for Complainant

LA2022601858

Exhibit A

Accusation No. 800-2018-046154

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 MARSHA E. BARR-FERNANDEZ
Deputy Attorney General
4 State Bar No. 200896
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Telephone: (213) 269-6249
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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2018-046154

12 **JACOB ERIC TAUBER, M.D.**
13 **501 South First Avenue, Suite L**
Arcadia, CA 91006-3882

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. G 41526,**

Respondent.

16 **PARTIES**

17
18 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
19 the Deputy Director of the Medical Board of California, Department of Consumer Affairs
20 (Board).

21 2. On or about February 11, 1980, the Medical Board issued Physician's and Surgeon's
22 Certificate Number G 41526 to Jacob Eric Tauber, M.D. (Respondent). The Physician's and
23 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
24 herein and will expire on December 31, 2023, unless renewed.

25 **JURISDICTION**

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

1 4. Section 2004 of the Code states:

2 The board shall have the responsibility for the following:

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

5 (b) The administration and hearing of disciplinary actions.

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

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

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

10 (f) Approving undergraduate and graduate medical education programs.

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

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

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

15 5. Section 2220 of the Code states:

16 Except as otherwise provided by law, the board may take action against all
17 persons guilty of violating this chapter. The board shall enforce and administer this
18 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 including, but not limited to:

19 (a) Investigating complaints from the public, from other licensees, from health
20 care facilities, or from the board that a physician and surgeon may be guilty of
unprofessional conduct. The board shall investigate the circumstances underlying a
report received pursuant to Section 805 or 805.01 within 30 days to determine if an
interim suspension order or temporary restraining order should be issued. The board
shall otherwise provide timely disposition of the reports received pursuant to Section
805 and Section 805.01.

23 (b) Investigating the circumstances of practice of any physician and surgeon
24 where there have been any judgments, settlements, or arbitration awards requiring the
physician and surgeon or his or her professional liability insurer to pay an amount in
damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
25 respect to any claim that injury or damage was proximately caused by the physician's
and surgeon's error, negligence, or omission.

26 (c) Investigating the nature and causes of injuries from cases which shall be reported of a
27 high number of judgments, settlements, or arbitration awards against a physician and
28 surgeon.

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.

(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.

STATUTORY PROVISIONS

7. 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.

8. Section 2236 of the Code states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

9. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

1 (c) A conviction within the meaning of this section means a plea or verdict of
2 guilty or a conviction following a plea of nolo contendere. Any action that a board is
3 permitted to take following the establishment of a conviction may be taken when the
4 time for appeal has elapsed, or the judgment of conviction has been affirmed on
5 appeal, or when an order granting probation is made suspending the imposition of
6 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
7 the Penal Code.

8 (d) The Legislature hereby finds and declares that the application of this section
9 has been made unclear by the holding in *Petropoulos v. Department of Real Estate*
10 (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant
11 number of statutes and regulations in question, resulting in potential harm to the
12 consumers of California from licensees who have been convicted of crimes.
13 Therefore, the Legislature finds and declares that this section establishes an
14 independent basis for a board to impose discipline upon a licensee, and that the
15 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
16 constitute a change to, but rather are declaratory of, existing law.

17 REGULATORY PROVISIONS

18 10. California Code of Regulations, title 16, section 1360, states:

19 For the purposes of denial, suspension or revocation of a license, certificate or
20 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime
21 or act shall be considered to be substantially related to the qualifications, functions or
22 duties of a person holding a license, certificate or permit under the Medical Practice
23 Act if to a substantial degree it evidences present or potential unfitness of a person
24 holding a license, certificate or permit to perform the functions authorized by the
25 license, certificate or permit in a manner consistent with the public health, safety or
26 welfare. Such crimes or acts shall include but not be limited to the following:
27 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violation of, or conspiring to violate any provision of the Medical Practice Act.

1 COST RECOVERY

2 11. Section 125.3 of the Code states:

3 (a) Except as otherwise provided by law, in any order issued in resolution of a
4 disciplinary proceeding before any board within the department or before the
5 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
6 administrative law judge may direct a licensee found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
8 investigation and enforcement of the case.

9 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
10 order may be made against the licensed corporate entity or licensed partnership.

11 (c) A certified copy of the actual costs, or a good faith estimate of costs where
12 actual costs are not available, signed by the entity bringing the proceeding or its
13 designated representative shall be prima facie evidence of reasonable costs of
14 investigation and prosecution of the case. The costs shall include the amount of
15 investigative and enforcement costs up to the date of the hearing, including, but not
16 limited to, charges imposed by the Attorney General.

1 (d) The administrative law judge shall make a proposed finding of the amount
2 of reasonable costs of investigation and prosecution of the case when requested
3 pursuant to subdivision (a). The finding of the administrative law judge with regard
4 to costs shall not be reviewable by the board to increase the cost award. The board
5 may reduce or eliminate the cost award, or remand to the administrative law judge if
6 the proposed decision fails to make a finding on costs requested pursuant to
7 subdivision (a).

8 (e) If an order for recovery of costs is made and timely payment is not made as
9 directed in the board's decision, the board may enforce the order for repayment in any
10 appropriate court. This right of enforcement shall be in addition to any other rights
11 the board may have as to any licensee to pay costs.

12 (f) In any action for recovery of costs, proof of the board's decision shall be
13 conclusive proof of the validity of the order of payment and the terms for payment.

14 (g) (1) Except as provided in paragraph (2), the board shall not renew or
15 reinstate the license of any licensee who has failed to pay all of the costs ordered
16 under this section.

17 (2) Notwithstanding paragraph (1), the board may, in its discretion,
18 conditionally renew or reinstate for a maximum of one year the license of any
19 licensee who demonstrates financial hardship and who enters into a formal agreement
20 with the board to reimburse the board within that one-year period for the unpaid
21 costs.

22 (h) All costs recovered under this section shall be considered a reimbursement
23 for costs incurred and shall be deposited in the fund of the board recovering the costs
24 to be available upon appropriation by the Legislature.

25 (i) Nothing in this section shall preclude a board from including the recovery of
26 the costs of investigation and enforcement of a case in any stipulated settlement.

27 (j) This section does not apply to any board if a specific statutory provision in
28 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

12. Respondent Jacob Eric Tauber, M.D. is subject to disciplinary action under sections
490 and 2236 of the Code, in that he was convicted of a crime substantially related to the
qualifications, functions, or duties of a physician. The circumstances are as follows:

13. Respondent is an orthopedic surgeon whose practice was based in Beverly Hills
and Glendale, California. During the relevant time period, Respondent performed primarily non-
spinal surgeries and generally referred spinal surgeries to other surgeons.

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1 14. From 2008 through 2013, Respondent provided patient referrals to other healthcare
2 providers in exchange for illegal referral fees known as kickbacks. Respondent profited
3 approximately \$525,000.00 from the scheme.

4 15. On or about July 12, 2018, in the case of *United States of America v. Jacob E.*
5 *Tauber*, United States District Court for the Central District of California case number 8:18-cr-
6 00140-JLS, Respondent was charged with violating Title 18 United States Code section 371,
7 (conspiracy to commit a criminal offense); Title 18 United States Code sections 1341 and 1346
8 (mail fraud involving deprivation of honest services); Title 18 United States Code sections 1343
9 and 1346 (wire fraud involving deprivation of honest services); Title 18 United States Code
10 section 1952, subdivision (a)(3) (use of an interstate facility in aid of unlawful activity); Title 18
11 United States Code section 1320a-7b, subdivision (b)(1)(A) (soliciting and receiving illegal
12 remunerations for health care referrals); Title 18 United States Code section 2 (aiding and
13 abetting and causing an act to be done); Title 18 United States Code section 982, subdivision
14 (a)(7), section 981, subdivisions (a)(1)(C), and Title 28 United States Code section 2461,
15 subdivision (c) (criminal forfeiture).

16 16. On or about November 15, 2018, Respondent was convicted, by way of a plea of
17 guilty, of the crime of conspiracy to commit a criminal offense, a felony, in violation of Title 18
18 United States Code section 371, as charged in Count 2 (two) of the Indictment.

19 17. Respondent was sentenced on April 15, 2022, to serve four months house arrest and
20 three years supervised release (probation) under terms and conditions. Respondent was ordered
21 to pay a fine in the amount of \$25,000.00, and to comply with standard terms and conditions of
22 supervised release. The court also entered a money judgment of forfeiture in the amount of
23 \$525,000.00 against Respondent.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct: Dishonest and Corrupt Acts)**

26 18. Respondent Jacob Eric Tauber, M.D. is subject to disciplinary action under section
27 2234, subdivision (e), in that he engaged in dishonest and corrupt acts. The circumstances are as
28 follows:

1 19. The facts and allegations set forth in the First Cause for Discipline are incorporated
2 by reference as if fully set forth.

3 20. Each of the alleged acts set forth in the First Cause for Discipline, above, is also a
4 dishonest and corrupt act.

5 **PRAYER**

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


8 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 41526,
9 issued to Jacob Eric Tauber, M.D.;

10 2. Revoking, suspending or denying approval of Jacob Eric Tauber, M.D.'s authority to
11 supervise physician assistants and advanced practice nurses;

12 3. Ordering Jacob Eric Tauber, M.D., to pay the Board the costs of the investigation and
13 enforcement of this case, and if placed on probation, the costs of probation monitoring; and,

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

15
16 DATED: JAN 31 2023


RISHI VARGHESE
Deputy Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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