

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

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

**Brian C. Payne, M.D.**

**Physician's and Surgeon's  
Certificate No. A 67059**

**Case No.: 800-2020-065256**

**Respondent.**

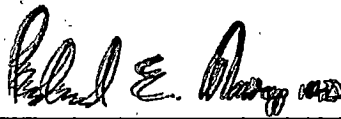
**DECISION**

**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 July 19, 2023.**

**IT IS SO ORDERED: June 19, 2023.**

**MEDICAL BOARD OF CALIFORNIA**



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

1 ROB BONTA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 VLADIMIR SHALKEVICH  
Deputy Attorney General  
4 State Bar No. 173955  
300 South Spring Street, Suite 1702  
5 Los Angeles, California 90013  
Telephone: (213) 269-6538  
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 BRIAN C. PAYNE, M.D.

14 6617 W 82nd Street

15 Los Angeles, California 90045

16 Physician's and Surgeon's Certificate A 67059,

17 Respondent.  
18

Case No. 800-2020-065256

OAH No. 2022090059 (Primary)

19 **STIPULATED SETTLEMENT AND**  
20 **DISCIPLINARY ORDER**

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. Reji Varghese (Complainant) is the Deputy Director of the Medical Board of  
25 California (Board). He is represented in this matter by Rob Bonta, Attorney General of the State  
26 of California, by Vladimir Shalkevich, Deputy Attorney General.  
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1 CULPABILITY

2 9. Respondent understands and agrees that the charges in Accusation No. 800-2020-  
3 065256 constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

4 10. Respondent does not contest that, at an administrative hearing, Complainant could  
5 establish a *prima facie* case with respect to the charges and allegations in Accusation No. 800-  
6 2020-065256 (a copy of which is attached hereto as Exhibit A), and that he has thereby subjected  
7 his Physician's and Surgeon's Certificate No. A 67059 to disciplinary action.

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

11 CONTINGENCY

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

22 13. Respondent agrees that if he petitions for early termination or modification of  
23 probation, or if an accusation and/or petition to revoke probation is filed against him before the  
24 Board, all of the charges and allegations contained in Accusation No. 800-2020-065256 shall be  
25 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or  
26 any other licensing proceeding involving Respondent in the State of California.

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

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

## DISCIPLINARY ORDER

**IT IS HEREBY ORDERED THAT** Physician's and Surgeon's Certificate No. A 67059 issued to Respondent Brian C. Payne, M.D. is revoked. However, the revocation is stayed, and Respondent is placed on probation for five (5) years, contingent upon his strict adherence to the following terms and conditions:

1. COOPERATION WITH PHYSICIAN ASSISTANT BOARD. The Respondent agrees to cooperate fully with the Complainant and its counsel in connection with the case entitled *In the Matter of the Accusation against Ramon Castellon Gonzalez, PA – C*, Physician Assistant Board Case No. 950-2020-002730. As used here, "cooperation" requires the Respondent: (A) to respond truthfully and completely to all questions, whether in interviews, in correspondence, telephone conversations, at a hearing, or at any trial or other court proceeding; (B) to attend all meetings, trials, and other proceedings at which the Respondent's presence is requested by the Complainant or compelled by subpoena or court order; (C) to produce voluntarily any documents, records, or other tangible evidence related to his interactions with Ramon Castellon Gonzalez that may be requested by the Complainant. If Respondent fails to do so or should any of Respondent's statements or testimony prove to be knowingly false, misleading, or materially incomplete, or if the Respondent otherwise violates the terms of this Stipulation in any material way, it shall be a violation of probation. The determination of whether the Respondent has violated this term shall be at the sole discretion of the Complainant.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis after that, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 32 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, including but not limited to those  
3 concerning prohibitions on corporate practice of medicine and appropriate supervision of  
4 Physician Assistants and/or Advanced Practice Nurses, and shall be Category I certified. The  
5 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
6 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
7 completion of each course, the Board or its designee may administer an examination to test  
8 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 57  
9 hours of CME of which 32 hours were in satisfaction of this condition.

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

20 A professionalism program taken after the acts that gave rise to the charges in the  
21 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
22 or its designee, be accepted towards the fulfillment of this condition if the program would have  
23 been approved by the Board or its designee had the program been taken after the effective date of  
24 this Decision.

25 Respondent shall submit a certification of successful completion to the Board or its  
26 designee not later than 15 calendar days after successfully completing the program or not later  
27 than 15 calendar days after the effective date of the Decision, whichever is later.

28 4. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective

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

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

16 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
17 probation, Respondent's practice, except his practice as an emergency room physician at an  
18 Emergency Department of a general acute care hospital as defined by Health and Safety Code  
19 section 1250, shall be monitored by the approved monitor. Respondent shall make all records  
20 available for immediate inspection and copying on the premises by the monitor at all times during  
21 business hours and shall retain the records for the entire term of probation.

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

27 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
28 includes an evaluation of Respondent's performance, indicating whether Respondent's practices

1 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
2 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
3 that the monitor submits the quarterly written reports to the Board or its designee within 10  
4 calendar days after the end of the preceding quarter.

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

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

18 5. LIMITATION ON SERVING AS A MEDICAL DIRECTOR. During probation,  
19 Respondent is prohibited from serving as a Medical Director<sup>1</sup> or supervisor of any Physician  
20 Assistant, Nurse Practitioner, or any other licensed or unlicensed medical personnel at any clinic  
21 or facility, unless at least 20 hours per week he is physically present at that clinic or facility at the  
22 same time as the personnel he supervises. After the effective date of this Decision, all patients  
23 being treated at any clinic or facility where Respondent is a Medical Director shall be notified  
24 that Respondent is required to be physically present at the clinic or facility at least 20 hours per  
25 week. Any new patients must be provided this notification at the time of their initial  
26 appointment.

27 \_\_\_\_\_  
28 <sup>1</sup> Respondent is not a Medical Director of any Emergency Department of a general acute  
care hospital as defined by Health and Safety Code section 1250.



1 Respondent shall maintain a log of all patients to whom the required oral notification was  
2 made. The log shall contain the: (1) patient's name, address and phone number; (2) patient's  
3 medical record number, if available; (3) the full name of the person making the notification; (4)  
4 the date the notification was made; and (5) a description of the notification given.

5 Respondent shall maintain a calendar log of all of his medical practice times and location,  
6 including his emergency department practice. The log shall contain (1) The date Respondent was  
7 physically present at any hospital, medical clinic, facility, or premises where he engaged in the  
8 practice of medicine, including but not limited to his practice as an Emergency Room physician,  
9 office-based physician, or a Medical Director; (2) the name and address of the location where he  
10 engaged in the practice of medicine; and (3) the start time and end time during which he was  
11 physically present at the location. Respondent shall keep this log in chronological order in a  
12 separate file or ledger. He shall make the log available for immediate inspection and copying on  
13 the premises at all times during business hours by the Board or its designee and shall retain the  
14 log for the entire term of probation.

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

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

24 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
25 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
26 advanced practice nurses unless his is physically present for at least 20 hours per week on the  
27 same premises and at the same time as the supervised physician assistants or advanced practice  
28 nurses.

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

4        9.    INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby  
5 ordered to reimburse the Board its costs of investigation and enforcement in the amount of  
6 \$11,530 (eleven thousand five hundred thirty dollars). Costs shall be payable to the Medical  
7 Board of California. Failure to pay such costs shall be considered a violation of probation.

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

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

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

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

19        11.   GENERAL PROBATION REQUIREMENTS.

20        Compliance with Probation Unit

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

22        Address Changes

23        Respondent shall, at all times, keep the Board informed of Respondent's business and  
24 residence addresses, email addresses (if available), and telephone numbers. Changes of such  
25 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
26 circumstances shall a post office box serve as an address of record, except as allowed by Business  
27 and Professions Code section 2021, subdivision (b).  
28

1        License Renewal

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

4        Travel or Residence Outside California

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

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

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

14        13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
15 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
16 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
17 defined as any period of time Respondent is not practicing medicine as defined in Business and  
18 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
19 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
20 Respondent resides in California and is considered to be in non-practice, Respondent shall  
21 comply with all terms and conditions of probation. All time spent in an intensive training  
22 program which has been approved by the Board or its designee shall not be considered non-  
23 practice and does not relieve Respondent from complying with all the terms and conditions of  
24 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
25 on probation with the medical licensing authority of that state or jurisdiction shall not be  
26 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
27 period of non-practice.

28        In the event Respondent's period of non-practice while on probation exceeds 18 calendar

1 months, Respondent shall successfully complete the Federation of State Medical Boards's Special  
2 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
3 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
4 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

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

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

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

12 14. COMPLETION OF PROBATION. Respondent shall comply with all financial  
13 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
14 completion of probation. This term does not include cost recovery, which is due within 30  
15 calendar days of the effective date of the Order, or by a payment plan approved by the Medical  
16 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate  
17 shall be fully restored.

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

25 16. LICENSE SURRENDER. Following the effective date of this Decision, if  
26 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
27 the terms and conditions of probation, Respondent may request to surrender his or her license.  
28 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the Surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

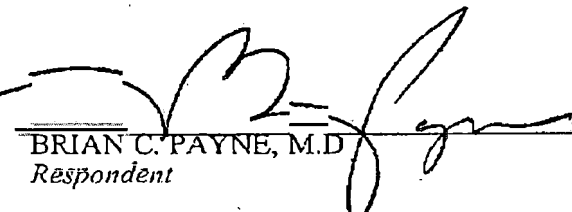
17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its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

18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2020-065256 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

#### ACCEPTANCE

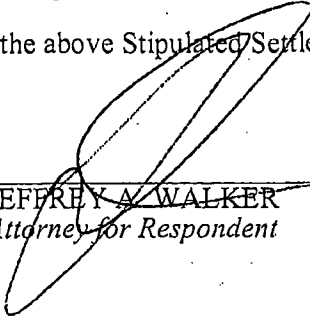
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeffrey A. Walker. I understand the Stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 2/27/23

  
BRIAN C. PAYNE, M.D.  
Respondent

1 I have read and fully discussed with Respondent Brian C. Payne, M.D. the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
3 I approve its form and content.

4 DATED: 2/27/23

5   
JEFFREY A. WALKER  
Attorney for Respondent

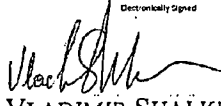
7 **ENDORSEMENT**

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

10 DATED: February 28, 2023

Respectfully submitted,

11  
12 ROB BONTA  
Attorney General of California  
13 ROBERT MCKIM BELL  
Supervising Deputy Attorney General

14   
15 VLADIMIR SHALKEVICH  
16 Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**  
**Accusation No. 800-2020-065256**

1 ROB BONTA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 VLADIMIR SHALKEVICH  
Deputy Attorney General  
4 State Bar No. 173955  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6538  
6 Facsimile: (916) 731-2117  
*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

Case No. 800-2020-065256

13 **BRIAN C. PAYNE, M.D.**  
14 **6617 W 82nd Street**  
**Los Angeles, CA 90045**

**A C C U S A T I O N**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 67059,**

17 Respondent.

18  
19 **PARTIES**

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

23 2. On or about November 26, 1998, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 67059 to Brian C. Payne, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on November 30, 2022, unless renewed.

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1 (a) Licensees who are employed by a partnership, a group, or a professional  
2 corporation that holds a fictitious name permit.

3 (b) Licensees who contract with, are employed by, or are on the staff of, any clinic  
4 licensed by the State Department of Health Services under Chapter 1 (commencing  
5 with Section 1200) of Division 2 of the Health and Safety Code.

6 (c) An outpatient surgery setting granted a certificate of accreditation from an  
7 accreditation agency approved by the medical board.

8 (d) Any medical school approved by the division or a faculty practice plan connected  
9 with the medical school.

10 8. Section 2261 of the Code provides:

11 Knowingly making or signing any certificate or other document directly or indirectly  
12 related to the practice of medicine or podiatry which falsely represents the existence or  
13 nonexistence of a state of facts, constitutes unprofessional conduct.

14 9. Section 2052 of the Code provides:

15 (a) Notwithstanding Section 146, any person<sup>1</sup> who practices or attempts to practice, or  
16 who advertises or holds himself or herself out as practicing, any system or mode of treating  
17 the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any  
18 ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or  
19 mental condition of any person, without having at the time of so doing a valid, unrevoked,  
20 or unsuspended certificate as provided in this chapter or without being authorized to  
21 perform the act pursuant to a certificate obtained in accordance with some other provision  
22 of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars  
23 (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code,  
24 by imprisonment in a county jail not exceeding one year, or by both the fine and either  
25 imprisonment.

26 (b) Any person who conspires with or aids or abets another to commit any act  
27 described in subdivision (a) is guilty of a public offense, subject to the punishment  
28 described in that subdivision.

(c) The remedy provided in this section shall not preclude any other remedy provided  
by law.

10. Section 2400 of the Code provides, in pertinent part:

///

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<sup>1</sup> "Person" means any individual, partnership, corporation, limited liability company, or  
other organization, or any combination thereof, except that only natural persons shall be licensed  
under this chapter. (Bus. & Prof. Code § 2032.)

Corporations and other artificial legal entities shall have no professional rights, privileges, or powers....

11. Section 2402 of the Code provides, in pertinent part:

The provisions of Section 2400 do not apply to a medical or podiatry corporation practicing pursuant to the Moscone-Knox Professional Corporation Act...

12. Corporations Code section 13401.5 provides, in pertinent part:

Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation. ...

(a) Medical corporation.

...

(3) Registered nurses.

...

(7) Licensed physician assistants.

#### COST RECOVERY

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

#### FACTUAL ALLEGATIONS

**MVP, Inc.**

14. Starting on or about November 10, 2010 and through the present, Ramon Castellon Gonzalez, P.A. (Ray Gonzalez, P.A. or Gonzalez) registered a Professional Medical Corporation

1 called MVP Family Practice & Sports Medicine, Inc. (MVP, Inc.). MVP, Inc. is a professional  
2 medical corporation incorporated in the State of California and located in Downey, California.  
3 Corporate information for MVP, Inc., which was filed with the California Secretary of State,  
4 indicates that Ray Gonzalez, a Physician Assistant, owns 49% of MVP, Inc. stock, and  
5 Respondent, a physician licensed in California, owns 51% of MVP, Inc. stock. Gonzalez applied  
6 for a Fictitious Name Permit from the Medical Board of California, attesting that Respondent  
7 owns 51% of the MVP, Inc.'s shares. Respondent co-signed the application for a Fictitious Name  
8 Permit.

9 15. Respondent's ownership of any corporate stock of MVP, Inc. is fictitious. When  
10 questioned by the Board's investigators, Respondent explained that Gonzalez asked Respondent,  
11 who was one of Gonzalez's preceptors during physician assistant training, if Respondent "would  
12 be interested in being his medical director because he wanted to open up a clinic in Downey."  
13 During an interview with Medical Board's investigators, Respondent stated that he owns 51% of  
14 MVP, Inc. "by rule." When asked directly whether Gonzalez is the owner of the clinic,  
15 Respondent stated: "Ray is the owner of the clinic."

16 16. Gonzalez is listed as MVP, Inc.'s CEO, Secretary, and CFO on the corporate  
17 documents filed with the California Secretary of State. According to Respondent, Gonzalez  
18 appoints all corporate officers at MVP, Inc. Respondent invested no money in MVP, Inc., had no  
19 input into where the clinic was to be located, has no responsibilities in day-to-day operations of  
20 MVP, Inc., has no access to MVP, Inc.'s bank accounts, does not know how MVP, Inc.'s  
21 employees are paid, has no input into MVP, Inc.'s hiring of staff and does not know the  
22 employees' last names. Gonzalez is the holder of the lease for the premises of MVP, Inc.  
23 Respondent has no input into how MVP, Inc. is advertised, that also being Gonzalez's  
24 responsibility. MVP, Inc.'s Internet advertising, before it was taken down during the  
25 investigation, prominently featured Gonzalez but provided no information whatsoever about  
26 Respondent. MVP, Inc.'s staff and patients refer to Gonzalez as "Doc" or "Doctor Ray" or  
27 "Doctor Gonzalez." Various Internet reviews advertising MVP, Inc., including purported patient  
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1 reviews on Yelp.com, refer to Gonzalez as "Doctor Ray" or "Doctor Gonzalez" with no  
2 correction or clarification from Respondent, or from Gonzalez or MVP, Inc.

3 17. Respondent does not see any of MVP, Inc.'s patients, but signs their charts as  
4 necessary for insurance purposes, or to comply with the Board's supervision requirements, during  
5 a weekly one-hour visit to MVP, Inc. Gonzalez, and not Respondent, refers MVP, Inc.'s patients  
6 to specialists, and Respondent has never seen the practice's provider referral list. Respondent did  
7 not select any of the laboratories used by MVP, Inc. to render patient care. Respondent has no  
8 access to secure medicine and prescription pad storage at MVP, Inc., and is paid a small fixed  
9 monthly stipend for acting as Gonzalez's supervisor and MVP, Inc.'s Medical Director.

10 18. When asked by the Medical Board's investigators whether he would expect to receive  
11 any proceeds from a potential sale of MVP, Inc., Respondent stated: "I would not get anything  
12 out of it...because I haven't invested anything."

13 **Atlantic Family Medical Clinic, Inc.**

14 19. On or about October 21, 2013 and through the present, Stephen Gichuru, a Physician  
15 Assistant licensed in the State of California, registered with the California Secretary of State a  
16 professional medical corporation called Atlantic Family Medical Clinic, Inc. (AFMC, Inc.), doing  
17 business in Bell, California. The purpose of the corporation was and is to engage in the  
18 profession of medicine. Stephen Gichuru was designated as the Chief Executive Officer of  
19 AFMC, Inc., and Respondent was listed as a director. AFMC, Inc. is engaged in the practice of  
20 general family medicine and utilizes Respondent as a Medical Director.

21 20. In his interview with the Board's investigators Respondent stated that he goes to  
22 AFMC, Inc. once a week to review patient charts, and "it's a 51/49" with Stephen Gichuru  
23 owning 49% of the practice and Respondent owning 51%. Respondent's ownership of any part  
24 of AFMC, Inc. is fictitious. Respondent is paid a stipend of \$2000 per month to pretend to be the  
25 51 % owner of AFMC, Inc., to serve as its medical director and to supervise Stephen Gichuru. In  
26 his interview, Respondent stated: "I don't do anything with billing and I don't do anything with  
27 payroll. And I actually don't do anything with hiring or firing of employees whatsoever."  
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1 When asked directly, "so you are not the owner of that location at all?" Respondent stated: "No.  
2 I'm not the owner."

3 21. On or about April 17, 2015, Stephen Gichuru and/or Respondent submitted a  
4 Fictitious Name Permit application to the Medical Board of California, in which Mr. Gichuru was  
5 listed as a 49% owner and Respondent was listed as the 51% owner of AFMC, Inc. Respondent  
6 co-signed the application. The Fictitious Name Permit was issued by the Board, pursuant to this  
7 application, on May 13, 2015. It expired on May 31, 2017. As of the date of this Accusation, the  
8 Fictitious Name Permit was not renewed and AFMC, Inc. continues to engage in the practice of  
9 medicine without a valid Fictitious Name Permit.

10 **Ivy's Medical Weight Loss Medical Center of Inglewood**

11 22. On or about March 25, 2019, Nicola Adkins, R.N. and Dominique Martin, R.N., both  
12 licensed as Registered Nurses in the State of California, registered a California corporation called  
13 Ivy's Medical Weight Loss Medical Center of Inglewood, Inc., (IMWLMC, Inc.) with the  
14 California Secretary of State. Respondent was listed as a director. According to Respondent,  
15 nurses Adkins and Martin own 49% of the corporate stock, and Respondent owns 51%.

16 23. Respondent's ownership of any part of IMWLMC, Inc. is fictitious. Respondent was  
17 asked what role he had in starting this practice. Respondent stated: "Actually, I didn't. Well, I  
18 came in under actually the original owner who was – her name was Ivy. She then sold the  
19 business to them and then they approached me to be the medical director and I was like well okay  
20 I can be – I can continue being the medical director. We have since changed the paperwork over  
21 to 51/49... That's why I was – I'm the 51 percent but, you know, they are the ownership tax-  
22 wise... I just get a stipend every month. That's it." During his interview with the Board's  
23 investigators, Respondent indicated that IMWLMC, Inc. is engaged in the practice of medicine  
24 and employs a physician assistant as well as himself.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Moscone Knox Professional Corporations Act)**

3 24. Respondent Brian C. Payne, M.D. is subject to disciplinary action under section 2286  
4 of the Code, because he violated, attempted to violate, directly or indirectly, or assisted in or  
5 abetted the violation, or conspired to violate Moscone-Knox Professional Corporations Act.

6 25. The allegations of paragraphs 14 - 23 herein are incorporated herein by reference.

7 26. Respondent violated, attempted to violate, directly or indirectly, or assisted in or  
8 abetted the violation, or conspired to violate Moscone-Knox Professional Corporations Act:

9 A) By falsely claiming 51% of MVP, Inc. corporate stock;

10 B) By falsely claiming 51% ownership of AFMC, Inc. corporate stock;

11 C) By falsely claiming 51% ownership of IMWLMC, Inc. corporate stock.

12 D) By participating in the formation of IMWLMC, Inc. in violation of Moscone-  
13 Knox Professional Corporations Act, Corporations Code section 13401.3, where the number of  
14 non-physician licensed persons owning shares in IMWLMC exceeded the number of licensed  
15 physician share owners.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Aiding or Abetting Unlicensed Corporate Practice of Medicine)**

18 27. Respondent Brian C. Payne, M.D. is subject to disciplinary action under sections  
19 2234, 2286, 2400, 2402 and 2052 of the Code, because he aided or abetted the unlicensed  
20 corporate practice of medicine.

21 28. The allegations of paragraphs 14 - 23 herein are incorporated herein by reference.

22 29. Respondent aided or abetted in the unlicensed corporate practice of medicine as  
23 follows:

24 A) By falsely claiming 51% ownership of corporate stock in MVP, Inc., Respondent  
25 aided or abetted MVP, Inc. to engage in the unlicensed practice of medicine as a professional  
26 medical corporation;

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1 B) By falsely claiming 51% ownership of corporate stock in AFMC, Inc.,  
2 Respondent aided or abetted AFMC, Inc. to engage in the unlicensed practice of medicine as a  
3 professional medical corporation;

4 C) By falsely claiming 51% ownership of corporate stock in IMWLMC, Inc.,  
5 Respondent aided or abetted IMWLMC, Inc. to engage in the unlicensed practice of medicine.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Acts of Dishonesty or Corruption)**

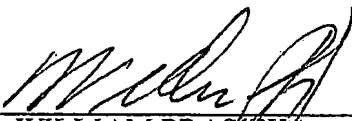
8 30. By the virtue of the allegations in the First and Second Causes for Discipline,  
9 Respondent Brian C. Payne, M.D. is subject to disciplinary action under section 2234,  
10 subdivision (e), in that he committed acts involving dishonesty or corruption substantially related  
11 to the qualifications, functions or duties of a physician and surgeon.

12 **PRAAYER**

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

- 15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 67059,  
16 issued to Brian C. Payne, M.D.;
- 17 2. Revoking, suspending or denying approval of Brian C. Payne, M.D.'s authority to  
18 supervise physician assistants and advanced practice nurses;
- 19 3. Ordering Brian C. Payne, M.D., to pay the Board the costs of the investigation and  
20 enforcement of this case, and if placed on probation, the costs of probation monitoring; and
- 21 4. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: JUN 20 2022

24   
25 WILLIAM PRASIFKA  
26 Executive Director  
27 Medical Board of California  
28 Department of Consumer Affairs  
State of California  
Complainant

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