

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

In the Matter of the Accusation Against:

Victor Manuel Vargas, M.D.

Physician's & Surgeon's  
Certificate No. A 99927

Respondent.

Case No. 800-2019-054374

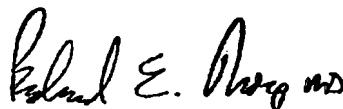
DECISION

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 August 09, 2023.

IT IS SO ORDERED: July 10, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA  
Attorney General of California  
2 STEVE DIEHL  
Supervising Deputy Attorney General  
3 LYNETTE D. HECKER  
Deputy Attorney General  
4 State Bar No. 182198  
California Department of Justice  
5 2550 Mariposa Mall, Room 5090  
Fresno, CA 93721  
6 Telephone: (559) 705-2320  
Facsimile: (559) 445-5106  
7 *Attorneys for Complainant*

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:

13 **VICTOR MANUEL VARGAS, M.D.**  
14 **2625 E. Divisadero St.**  
**Fresno, CA 93721-1431**

15 **Physician's and Surgeon's Certificate No. A**  
16 **99927**

17 Respondent.

Case No. 800-2019-054374

OAH No. 2022040435

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Medical Board of California of the Department of Consumer  
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
22 which will be submitted to the Board for approval and adoption as the final disposition of the  
23 Accusation.

24 **PARTIES**

25 1. This action was brought by William Prasifka, former Executive Director of the  
26 Medical Board of California (Board), solely in his official capacity. Reji Varghese (Complainant)  
27 is the Deputy Director of the Board and is acting in Mr. Prasifka's stead until either an Interim  
28

1 Executive Director, or a new Executive Director is appointed. Complainant is represented in this  
2 matter by Rob Bonta, Attorney General of the State of California, by Lynette D. Hecker, Deputy  
3 Attorney General.

4 2. Victor Manuel Vargas, M.D. (Respondent) is represented in this proceeding by  
5 attorney Michael F. Ball, whose address is: 7647 North Fresno Street, Fresno, CA 93720-8912.

6 3. On or about May 2, 2007, the Board issued Physician's and Surgeon's Certificate No.  
7 A 99927 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at  
8 all times relevant to the charges brought in Accusation No. 800-2019-054374, and will expire on  
9 May 31, 2023, unless renewed.

#### 10 JURISDICTION

11 4. Accusation No. 800-2019-054374 was filed before the Board, and is currently  
12 pending against Respondent. The Accusation and all other statutorily required documents were  
13 properly served on Respondent on March 18, 2022. Respondent timely filed his Notice of  
14 Defense contesting the Accusation.

15 5. A copy of Accusation No. 800-2019-054374 is attached as "Exhibit A" and  
16 incorporated herein by reference.

#### 17 ADVISEMENT AND WAIVERS

18 6. Respondent has carefully read, fully discussed with counsel, and understands the  
19 charges and allegations in Accusation No. 800-2019-054374. Respondent has also carefully read,  
20 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and  
21 Disciplinary Order.

22 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
23 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
24 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
25 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
26 documents; the right to reconsideration and court review of an adverse decision; and all other  
27 rights accorded by the California Administrative Procedure Act and other applicable laws.  
28



1 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any  
2 other licensing proceeding involving Respondent in the State of California.

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

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

9 **DISCIPLINARY ORDER**

10 **A. PUBLIC REPRIMAND**

11 IT IS HEREBY ORDERED that Respondent, VICTOR MANUEL VARGAS, M.D.,  
12 Physician's and Surgeon's Certificate No. A 99927, shall be and is hereby Publicly Reprimanded  
13 pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This  
14 Public Reprimand is issued in connection with Respondent's care and treatment of one patient, as  
15 set forth in Accusation No. 800-2019-054374.

16 **B. EDUCATION COURSE**

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

27 **C. MEDICAL RECORD KEEPING COURSE**

28 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a

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

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

14 Respondent shall submit a certification of successful completion to the Board or its  
15 designee not later than 15 calendar days after successfully completing the course, or not later than  
16 15 calendar days after the effective date of the Decision, whichever is later.

17 **D. INVESTIGATION/ENFORCEMENT COST RECOVERY**

18 Respondent is hereby ordered to reimburse the Board its costs of investigation and  
19 enforcement, including, but not limited to, expert review, amended accusations, legal reviews,  
20 investigation(s), and subpoena enforcement, as applicable, in the amount of \$17,646.25  
21 (seventeen thousand six hundred forty-six dollars and twenty-five cents). Costs shall be payable  
22 to the Medical Board of California. Failure to pay such costs shall be considered a violation of  
23 probation.

24 Payment must be made in full within 30 calendar days of the effective date of the Order, or  
25 by a payment plan approved by the Medical Board of California. Any and all requests for a  
26 payment plan shall be submitted in writing by respondent to the Board. Failure to comply with  
27 the payment plan shall be considered a violation of probation.

28 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility

1 to repay investigation and enforcement costs, including expert review costs (if applicable).

2 **E. FUTURE ADMISSIONS CLAUSE**

3 If Respondent should ever apply or reapply for a new license or certification, or petition for  
4 reinstatement of a license, by any other health care licensing action agency in the State of  
5 California, all of the charges and allegations contained in Accusation No. 800-2019-054374 shall  
6 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
7 Issues or any other proceeding seeking to deny or restrict license.

8 **F. ENFORCEMENT**

9 Failure to timely complete the courses outlined above shall constitute unprofessional  
10 conduct and is grounds for further disciplinary action.

11  
12 **ACCEPTANCE**

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
14 discussed it with my attorney, Michael F. Ball. I understand the stipulation and the effect it will  
15 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
16 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
17 Decision and Order of the Medical Board of California.

18  
19 DATED: \_\_\_\_\_  
20 VICTOR MANUEL VARGAS, M.D.  
21 *Respondent*

22 I have read and fully discussed with Respondent Victor Manuel Vargas, M.D. the terms and  
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
24 I approve its form and content.

25 DATED: \_\_\_\_\_  
26 MICHAEL F. BALL  
27 *Attorney for Respondent*

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**E. 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. 800-2019-054374 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.

**F. ENFORCEMENT**

Failure to timely complete the courses outlined above shall constitute unprofessional conduct and is grounds for further disciplinary action.

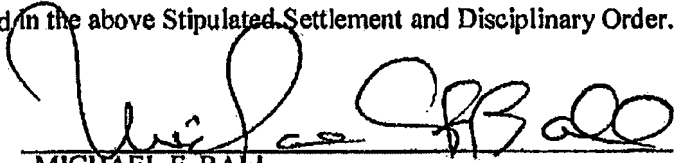
**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael F. Ball. 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: 02/16/2023   
VICTOR MANUEL VARGAS, M.D.  
Respondent

I have read and fully discussed with Respondent Victor Manuel Vargas, 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: 2/10/2023   
MICHAEL F. BALL  
Attorney for Respondent

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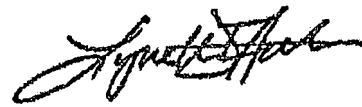
**ENDORSEMENT**

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

DATED: 2/13/2023

Respectfully submitted,

ROB BONTA  
Attorney General of California  
STEVE DIEHL  
Supervising Deputy Attorney General



LYNETTE D. HECKER  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2019-054374**

1 ROB BONTA  
Attorney General of California  
2 STEVE DIEHL  
Supervising Deputy Attorney General  
3 LYNETTE D. HECKER  
Deputy Attorney General  
4 State Bar No. 182198  
California Department of Justice  
5 2550 Mariposa Mall, Room 5090  
Fresno, CA 93721  
6 Telephone: (559) 705-2320  
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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. 800-2019-054374
13 <b>VICTOR MANUEL VARGAS, M.D.</b>	<b>ACCUSATION</b>
14 2625 E. Divisadero St. Fresno, CA 93721-1431	
15 <b>Physician's and Surgeon's Certificate</b> 16 <b>No. A 99927,</b>	
17 <b>Respondent.</b>	

18  
19 **PARTIES**

20 1. Willam 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 May 2, 2007, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 99927 to Victor Manuel Vargas, 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 May 31, 2023, unless renewed.

27 ///  
28 ///

1 **JURISDICTION**

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

5 4. Section 2227 of the Code states:

6 (a) A licensee whose matter has been heard by an administrative law judge of  
7 the Medical Quality Hearing Panel as designated in Section 11371 of the Government  
8 Code, or whose default has been entered, and who is found guilty, or who has entered  
9 into a stipulation for disciplinary action with the board, may, in accordance with the  
10 provisions of this chapter:

11 (1) Have his or her license revoked upon order of the board.

12 (2) Have his or her right to practice suspended for a period not to exceed one  
13 year upon order of the board.

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

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

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

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

27 **STATUTORY PROVISIONS**

28 5. 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 (1) An initial negligent diagnosis followed by an act or omission medically  
2 appropriate for that negligent diagnosis of the patient shall constitute a single  
3 negligent act.

4 (2) When the standard of care requires a change in the diagnosis, act, or  
5 omission that constitutes the negligent act described in paragraph (1), including, but  
6 not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
7 licensee's conduct departs from the applicable standard of care, each departure  
8 constitutes a separate and distinct breach of the standard of care.

9 (d) Incompetence.

10 (e) The commission of any act involving dishonesty or corruption that is  
11 substantially related to the qualifications, functions, or duties of a physician and  
12 surgeon.

13 (f) Any action or conduct that would have warranted the denial of a certificate.

14 (g) The failure by a certificate holder, in the absence of good cause, to attend  
15 and participate in an interview by the board. This subdivision shall only apply to a  
16 certificate holder who is the subject of an investigation by the board.

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

#### 20 COST RECOVERY

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

#### 27 DEFINITIONS

28 8. Apnea is a temporary cessation of breathing. Apneic means of, relating to, or  
affected by apnea.

9. Continuous positive airway pressure ("CPAP") machines deliver continuous  
pressurized air, of varying oxygen saturations, via a facemask and tubing. A bi-level positive  
airway pressure ("BiPAP") machine delivers oxygenated air at varying pressures and is most  
commonly used for persons who have trouble exhaling against CPAP's continuous pressure.

1 Both CPAP and BiPAP machines are utilized for patients with health conditions that impact  
2 breathing.

3 10. Empiric antibiotic therapy is directed against an anticipated and likely cause of  
4 infectious disease. It is used when antimicrobials are given to a person before the specific  
5 bacterium or fungus causing an infection is known. When it becomes known, treatment that is  
6 used is called directed therapy. Fighting an infection sooner rather than later is important to  
7 minimize morbidity, risk, and complications for serious infections like sepsis and suspected  
8 bacterial meningitis.

9 11. High-flow nasal cannula ("HFNC") therapy is an oxygen supply system capable of  
10 delivering up to 100% humidified and heated oxygen at a flow rate of up to 60 liters per minute.

11 12. Inotropic means modifying the force or speed of contraction of muscles.

12 13. To intubate means to insert a tube into a person or a body part, especially the trachea  
13 for ventilation. To extubate means to remove an inserted tube.

14 14. Laryngotracheobronchitis is inflammation of the larynx, trachea, and bronchi.  
15 Specifically it is an acute severe infection of these parts marked by swelling of the tissues and  
16 excessive secretion of mucus leading to more or less complete obstruction of the respiratory  
17 passages.

18 15. Parainfluenza type 3 virus is a common cause of upper and lower respiratory tract  
19 infections in children that can range from mild cold symptoms to bronchiolitis to life-threatening  
20 pneumonia. The clinical symptoms of bronchiolitis are those of increased work of breathing and  
21 include: nasal flaring, subcostal, intercostal and/or suprasternal retractions, grunting, tachypnea,  
22 dyspnea, and cyanosis. The progression of these symptoms to lethargy, poor feeding, apnea  
23 and/or hypoxemia are indications for hospitalization.

24 16. Pediatric intensive care is the subspecialty within pediatrics that concerns itself with  
25 recognition, prevention and/or management of impending or actual multiple organ system  
26 dysfunction ("MODS"). Infectious processes can result in MODS, and viral infections leading to  
27 respiratory failure are a known MODS trigger.

28 ///

1 **FACTUAL ALLEGATIONS**

2 17. On or about December 1, 2014, Patient A<sup>1</sup> (a minor) began to experience fever, a  
3 rash, and symptoms of an upper respiratory infection.

4 18. On or about December 6, 2014, Patient A was seen at a local urgent care center for  
5 treatment of the continued symptoms. Upon arrival, the patient became apneic, EMS was called,  
6 and her trachea was intubated following a brief period of bag and mask ventilation. Shortly after  
7 intubation, Patient A coughed and the endotracheal tube was dislodged. However, she  
8 demonstrated sufficient respiratory effort to be supported via bag-valve-mask ventilation while in  
9 route to Valley Children's Hospital ("VCH") where she was diagnosed with acute laryngo-  
10 tracheobronchitis due to parainfluenza virus type 3.

11 19. Upon arrival at VCH's emergency department ("ER"), staff noted Patient A had  
12 difficulty breathing and once again intubated her trachea. However, despite intubation, her  
13 oxygen saturation levels again dropped, so the pediatric intensivist was called to the emergency  
14 room. The endotracheal tube placed by the ER attending physician was removed and replaced by  
15 the pediatric intensive care unit ("PICU") attending physician, which was the patient's third direct  
16 laryngoscopy on or about that day.

17 20. In the PICU, Patient A rapidly progressed to sepsis syndrome/multiple organ system  
18 dysfunction ("MODS"), requiring mechanical ventilation and inotropic (pharmaceutical) support,  
19 as well as fluid resuscitation and empiric antibiotics.

20 21. Respondent assumed care for Patient A, on or about December 8, 2014. His progress  
21 notes for on or about that day make no mention of a planned extubation trial or anticipated  
22 tracheal extubation.

23 22. In the early morning of on or about December 9, 2014, an extubation readiness test  
24 was performed on Patient A. The results of the test are unclear from the records, with some  
25 noting the test was passed, while others note it was failed, and some records noting the results  
26 were conveyed, while others note they were not conveyed to Respondent.

27 \_\_\_\_\_  
28 <sup>1</sup> The patient's name is redacted for privacy. The patient's name has been previously  
disclosed to all parties.





1           26. The standard of medical practice in California is to diagnose and appropriately  
2 manage life threatening pediatric illness in a timely and effective manner. Treatment of  
3 hospitalized patients with severe bronchiolitis includes respiratory support provided in an  
4 incremental manner. Heated humidified high flow nasal cannula ("HFNC") is a mainstay of non-  
5 invasive support. If HFNC is not sufficient to mitigate the increased work of breathing, then non-  
6 invasive ventilation ("NIV") is utilized. Non-invasive modalities deliver mechanical assisted  
7 respiratory support without the need for tracheal intubation. These methods include continuous  
8 positive airway pressure ("CPAP") or bi-level positive airway pressure ("BiPAP") delivered via a  
9 patient interface such as nasal prongs or a mask and are often trialed prior to endotracheal  
10 intubation.

11           27. When less invasive measures fail, a small percentage of pediatric patients with croup  
12 will require tracheal intubation and a period of mechanical assisted ventilation. Once airway  
13 edema and lung injury subside, invasive mechanical ventilatory support is weaned and the trachea  
14 is extubated. Post-extubation respiratory failure is seen in a small proportion of children. The  
15 signs of failure are similar to those observed with respiratory distress previously described. These  
16 signs are well known to the pediatric intensivist and when they occur, targeted therapies such as  
17 HFNC or NIV (CPAP or BIPAP) are employed. When these therapies fail, prompt re-intubation  
18 of the trachea is warranted.

19           28. Respondent's failure to recognize the signs of impending respiratory failure and to  
20 intervene appropriately in a timely manner constitutes negligence. Respondent's inappropriate  
21 request of the respiratory therapist to try different facial mask and nasal prong sizes for non-  
22 invasive ventilation rather than proceeding expeditiously to direct laryngoscopy and replacement  
23 of the endotracheal tube constitutes negligence.

24           29. The standard of care requires that the most experienced person on the team perform  
25 endotracheal intubation in a code setting. Respondent permitting the transport respiratory care  
26 practitioner to attempt the first laryngoscopy during the code constitutes negligence.

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28 //

1 SECOND CAUSE FOR DISCIPLINE

2 (Recordkeeping)


3 30. Respondent has further subjected his Physician's and Surgeon's Certificate Number  
4 A 99927 to disciplinary action under sections 2227 and 2234, as defined by section 2266 in that  
5 he failed to maintain adequate and accurate records in his care and treatment of Patient A. The  
6 circumstances are set forth in paragraphs 21 through 22 above, which are incorporated here by  
7 reference as if fully set forth.

8 PRAYER

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

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 99927,  
12 issued to Victor Manuel Vargas, M.D.;
- 13 2. Revoking, suspending or denying approval of Victor Manuel Vargas, M.D.'s  
14 authority to supervise physician assistants and advanced practice nurses;
- 15 3. Ordering Victor Manuel Vargas, M.D., to pay the Board the costs of the investigation  
16 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: MAR 18 2022

20   
21 WILLIAM PRASHKA  
22 Executive Director  
23 Medical Board of California  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

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