

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

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

**Evan Reece Buxbaum, M.D.**

**Physician's and Surgeon's  
Certificate No. A 116531**

**Case No.: 800-2021-080549**

**Respondent.**

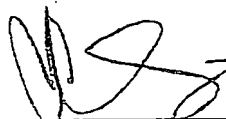
**DECISION**

**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 September 22, 2023.**

**IT IS SO ORDERED: August 24, 2023.**

**MEDICAL BOARD OF CALIFORNIA**



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

1 ROB BONTA  
Attorney General of California  
2 GREG W. CHAMBERS  
Supervising Deputy Attorney General  
3 KENDRA S. RIVAS  
Deputy Attorney General  
4 State Bar No. 340217  
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*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:

Case No. 800-2021-080549

13 **EVAN REECE BUXBAUM, M.D.**  
14 **7 Deye Lane**  
**Eastsound, WA 98245-8578**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Physician's and Surgeon's Certificate No. A**  
16 **116531**

Respondent.

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

21 **PARTIES**

22 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of  
23 California (Board). He brought this action solely in his official capacity and is represented in this  
24 matter by Rob Bonta, Attorney General of the State of California, by Kendra S. Rivas, Deputy  
25 Attorney General.

26 2. Respondent Evan Reece Buxbaum, M.D. (Respondent) is represented in this  
27 proceeding by attorney Amelia F. Burroughs, whose address is: P.O. Box 1465  
28 Ferndale, CA 95536-1465.

3. On or about April 8, 2011, the Board issued Physician's and Surgeon's Certificate No. A 116531 to Evan Reece Buxbaum, M.D. (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. 800-2021-080549, and will expire on December 31, 2024, unless renewed.

## JURISDICTION

4. Accusation No. 800-2021-080549 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 November 17, 2022. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2021-080549 is attached as exhibit A.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2021-080549. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

**CULPABILITY**

8. Respondent agrees that the charges and allegations in Accusation No. 800-2021-080549, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.



14. 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.

15. 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:

#### **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 116531 issued to Respondent Evan Reece Buxbaum, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, 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 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing

1 Medical Education (CME) requirements for renewal of licensure.

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

7 Respondent shall submit a certification of successful completion to the Board or its  
8 designee not later than 15 calendar days after successfully completing the course, or not later than  
9 15 calendar days after the effective date of the Decision, whichever is later.

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. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days

1 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment  
2 program approved in advance by the Board or its designee. Respondent shall successfully  
3 complete the program not later than six (6) months after Respondent's initial enrollment unless  
4 the Board or its designee agrees in writing to an extension of that time.

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

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

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

24 If Respondent fails to enroll, participate in, or successfully complete the clinical  
25 competence assessment program within the designated time period, Respondent shall receive a  
26 notification from the Board or its designee to cease the practice of medicine within three (3)  
27 calendar days after being so notified. The Respondent shall not resume the practice of medicine  
28 until enrollment or participation in the outstanding portions of the clinical competence assessment

1 program have been completed. If the Respondent did not successfully complete the clinical  
2 competence assessment program, the Respondent shall not resume the practice of medicine until a  
3 final decision has been rendered on the accusation and/or a petition to revoke probation. The  
4 cessation of practice shall not apply to the reduction of the probationary time period.

5 5. PROHIBITED PRACTICE. During probation, Respondent is prohibited from issuing  
6 medical vaccine exemptions to patients. After the effective date of this Decision, all patients  
7 being treated by the Respondent shall be notified that the Respondent is prohibited from issuing  
8 medical vaccine exemptions to patients. Any new patients must be provided this notification at  
9 the time of their initial appointment.

10 Respondent shall maintain a log of all patients to whom the required oral notification was  
11 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's  
12 medical record number, if available; 3) the full name of the person making the notification; 4) the  
13 date the notification was made; and 5) a description of the notification given. Respondent shall  
14 keep this log in a separate file or ledger, in chronological order, shall make the log available for  
15 immediate inspection and copying on the premises at all times during business hours by the Board  
16 or its designee, and shall retain the log for the entire term of probation.

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

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

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



1           8.   OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
2 governing the practice of medicine in California and remain in full compliance with any court  
3 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, including, but not  
6 limited to, expert review, amended accusations, legal reviews, investigation(s), and subpoena  
7 enforcement, as applicable, in the amount of \$ 30,663.75 (thirty thousand six hundred sixty three  
8 dollars and seventy five cents). Costs shall be payable to the Medical Board of California. Failure  
9 to pay such costs shall be considered a violation of probation.

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

14           The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to  
15 repay investigation and enforcement costs, including expert review costs.

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

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

21           11.   GENERAL PROBATION REQUIREMENTS.

22           Compliance with Probation Unit

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

24           Address Changes

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

1 and Professions Code section 2021, subdivision (b).

2 Place of Practice

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

6 License Renewal

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

9 Travel or Residence Outside California

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

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

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

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

1 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
2 on probation with the medical licensing authority of that state or jurisdiction shall not be  
3 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
4 period of non-practice.

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

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

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

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

17 14. COMPLETION OF PROBATION. Respondent shall comply with all financial  
18 obligations (e.g., restitution, probation costs) no later than 120 calendar days prior to the  
19 completion of probation. This term does not include cost recovery, which is due within 30  
20 calendar days of the effective date of the Order, or by a payment plan approved by the Medical  
21 Board and timely satisfied. Upon successful completion of probation, Respondent's certificate  
22 shall be fully restored.

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

1 the matter is final.

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

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

17 18. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for  
18 a new license or certification, or petition for reinstatement of a license, by any other health care  
19 licensing action agency in the State of California, all of the charges and allegations contained in  
20 Accusation No. 800-2021-080549 shall be deemed to be true, correct, and admitted by  
21 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or  
22 restrict license.

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1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Amelia F. Burroughs. I understand the stipulation and the effect it  
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
6 Decision and Order of the Medical Board of California.

7 DATED: 7/12/2023

8   
EVAN REECE BUXBAUM, M.D.  
Respondent

9 I have read and fully discussed with Respondent Evan Reece Buxbaum, M.D. the terms and  
10 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
11 I approve its form and content.

12  
13 DATED: 07.12.2023

14   
AMELIA F. BURROUGHS  
Attorney for Respondent

15  
16 ENDORSEMENT

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

19 DATED: 07/13/2023

20 Respectfully submitted.

21 ROB BONTA  
Attorney General of California  
22 GREG W. CHAMBERS  
Supervising Deputy Attorney General

23 

24 KENDRA S. RIVAS  
25 Deputy Attorney General  
Attorneys for Complainant

26  
27 SF 2022-100248 Buxbaum Stipulated Settlement.docx

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8 **BEFORE THE**  
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12 In the Matter of the Accusation Against:

Case No. 800-2021-080549

13 **EVAN REECE BUXBAUM, M.D.**  
14 **3305 Renner Drive**  
**Fortuna, CA 95540**

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

15 **Physician's and Surgeon's Certificate**  
16 **No. A 116531,**

Respondent.

17  
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 April 8, 2011, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 116531 to Evan Reece Buxbaum, 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 December 31, 2022, unless renewed.

27 ///

28 ///

## JURISDICTION

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

4. Section 2234 of the Code, states in pertinent part:

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.

5. Section 2266 provides that failure to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

6. Health & Safety Code section 120325, states in pertinent part:

In enacting this chapter, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

(1) Diphtheria.

(2) Hepatitis B.

(3) Haemophilus influenzae type b.

1 (4) Measles.

2 (5) Mumps.

3 (6) Pertussis (whooping cough).

4 (7) Poliomyelitis.

5 (8) Rubella.

6 (9) Tetanus.

7 (10) Varicella (chickenpox).

8 (11) Any other disease deemed appropriate by the department, taking into  
9 consideration the recommendations of the Advisory Committee on Immunization  
10 Practices of the United States Department of Health and Human Services, the  
11 American Academy of Pediatrics, and the American Academy of Family  
12 Physicians.

13 (b) That the persons required to be immunized be allowed to obtain immunizations from  
14 whatever medical source they so desire, subject only to the condition that the immunization  
15 be performed in accordance with the regulations of the department and that a record of the  
16 immunization is made in accordance with the regulations.

17 (c) Exemptions from immunization for medical reasons.

18 (d) For the keeping of adequate records of immunization so that health departments,  
19 schools, and other institutions, parents or guardians, and the persons immunized will be  
20 able to ascertain that a child is fully or only partially immunized, and so that appropriate  
21 public agencies will be able to ascertain the immunization needs of groups of children in  
22 schools or other institutions.

23 (e) Incentives to public health authorities to design innovative and creative programs that  
24 will promote and achieve full and timely immunization of children.

25 7. Healthy and Safety Code Section 120370 states:

26 (a)(1) Prior to January 1, 2021, if the parent or guardian files with the governing authority a  
27 written statement by a licensed physician and surgeon to the effect that the physical  
28 condition of the child is such, or medical circumstances relating to the child are such, that  
immunization is not considered safe, indicating the specific nature and probable duration of  
the medical condition or circumstances, including, but not limited to, family medical  
history, for which the physician and surgeon does not recommend immunization, that child  
shall be exempt from the requirements of this chapter, except for Section 120380, and  
exempt from Sections 120400, 120405, 120410, and 120415 to the extent indicated by the  
physician and surgeon's statement.

(2) Commencing January 1, 2020, a child who has a medical exemption issued before  
January 1, 2020, shall be allowed continued enrollment to any public or private elementary  
or secondary school, child care center, day nursery, nursery school, family day care home,  
or developmental center within the state until the child enrolls in the next grade span.

For purposes of this subdivision, "grade span" means each of the following:



1 (A) Birth to preschool, inclusive.

2 (B) Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.

3 (C) Grades 7 to 12, inclusive.

4 (3) Except as provided in this subdivision, on and after July 1, 2021, the governing  
5 authority shall not unconditionally admit or readmit to any of those institutions specified in  
6 this subdivision, or admit or advance any pupil to 7th grade level, unless the pupil has been  
7 immunized pursuant to Section 120335 or the parent or guardian files a medical exemption  
8 form that complies with Section 120372.

9 (b) If there is good cause to believe that a child has been exposed to a disease listed in  
10 subdivision (b) of Section 120335 and the child's documentary proof of immunization status  
11 does not show proof of immunization against that disease, that child may be temporarily  
12 excluded from the school or institution until the local health officer is satisfied that the child  
13 is no longer at risk of developing or transmitting the disease.

14 8. Healthy and Safety Code Section 120372, provides, in pertinent part:

15 Medical exemptions that do not comply with the Center for Disease Control and  
16 Prevention's (CDC) Advisory Committee on Immunization Practices' (ACIP) recommendations  
17 and guidelines and the American Academic of Pediatrics' guidelines on pediatric immunizations  
18 and immunization practices are subject to review and rejection by the California Department of  
19 Public Health. Further, the section provides that CDPH is to report to the Board any physician  
20 the department identifies as having written five or more rejected exemptions.

#### 21 COST RECOVERY

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

#### 27 FACTUAL ALLEGATIONS

28 10. Effective January 1, 2021, the California Department of Public Health (CDPH) shall  
notify the Board of any physician and surgeon who have five (5) or more medical exemptions in  
calendar years that are revoked. CDPH must annually review immunization reports from all  
schools and institutions to identify medical exemptions submitted to the department. A clinically  
trained immunization department staff member, who is either a physician and surgeon or a

1 registered nurse, must review medical exemptions from physician's and surgeon's who submitted  
2 five or more medical exemptions in a calendar year beginning January 1, 2020, schools or  
3 institutions subject to Section 120375 with an overall immunization rate of less than 95 percent,  
4 and school or institutions subject to Section 120375 that fail to provide vaccination rates reports  
5 to CDPH. Further, if CDPH determines that a physician's and surgeon's practice is contributing  
6 to a public health risk, CDPH shall report the physician and surgeon to the Board. CDPH must  
7 not accept medical exemptions from the physician and surgeon until he or she demonstrates to  
8 CDPH a public health risk no longer exists. If the Board has a pending accusation against a  
9 physician and surgeon relating to immunization standards of care, CDPH shall not accept a  
10 medical exemption from the physician and surgeon unless and until the accusation is resolved in  
11 favor of the physician and surgeon.<sup>1</sup>

12 11. Respondent is a physician with a specialty in pediatrics. The standard of care for  
13 pediatricians is to follow the Center for Disease Control and Prevention's (CDC) Advisory  
14 Committee on Immunization Practices' (ACIP) recommendations and guidelines, as well as the  
15 American Academic of Pediatrics' guidelines on pediatric immunizations and immunization  
16 practices. On August 10, 2021, pursuant to Health & Safety Code section 120372, the CDPH  
17 reported to the Board that CDPH identified Respondent as a physician who wrote five or more  
18 rejected vaccine exemptions for seven of Respondent's pediatric patients. Below is summary of  
19 the factual allegations for each patient.

20 PATIENTS 1 and 2

21 12. On June 23, 2021, Respondent saw Patient 1<sup>2</sup> and his younger sibling, Patient 2<sup>3</sup>, to  
22 discuss immunization exemptions with their mother. Patient 1 was 15-years-old when Respondent  
23 provided the vaccine exemption. Patient's 1 and 2's mother reported that Patient 1 and his older  
24 sibling experienced significant sequelae after early childhood immunizations. The mother stated

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25  
26 <sup>1</sup> CAIR-ME, the California Immunization Registry Medical Exemption web site is a secure site for  
27 physicians to issue and manage standardized medical exemptions for children in school or childcare.  
Parents use the same site to request medical exemptions from vaccination for their children. Schools and  
childcare facilities can monitor and get updates for medical exemptions issued for children in attendance.

28 <sup>2</sup> The patient is identified as "Patient 1" in this Accusation to protect his privacy.

<sup>3</sup> The patient is identified as "Patient 2" in this Accusation to protect his privacy.

1 that after the immunizations, Patient 1's older sibling developed learning disabilities and  
2 experienced a seizure. The mother said that Patient 1 developed a tympanic membrane collapse  
3 requiring several sets of tubes after his last immunization shots, and experienced what she  
4 describes as a seizure. Respondent noted that he understood the mother's hesitancy because while  
5 he was not caring for the family during that period, the story their mother told was concerning for  
6 adverse immunization reaction. However, the adverse reactions were not documented in detail or  
7 in correlation to a specific vaccine. Respondent did not verify if the older sibling and Patient 1  
8 had in fact experienced these severe reactions.

9 13. On June 29, 2021, Respondent submitted a vaccine exemption to CAIR-ME for  
10 Patient 1. The exemption shows Respondent began treating Patient 1 on August 17, 2017. The  
11 exemption states the medical basis for the exemption was that Patient 1 experienced a "seizure  
12 following vaccines by report. Not sure which vaccines." Respondent exempted Patient 1 from  
13 "MMR, Tdap, VAR/VZV."

14 14. Patient 2 was 4-years-old when Respondent issued the vaccine exemption. Patient 2 is  
15 the youngest of the three siblings. Respondent noted the same concerns the mother expressed  
16 regarding the older siblings in Patient 2's medical records and once again indicated that  
17 Respondent understood the mother's hesitation to consent to vaccinate Patient 2. Patient 2 has no  
18 recorded history of ever receiving immunizations.

19 15. On June 29, 2021, Respondent submitted a vaccine exemption to CAIR-ME for  
20 Patient 2. The exemption states that the medical basis for exemption was that the parent reported  
21 that both of the older siblings experienced seizures after their vaccinations, and that Patient 2 had  
22 not received any vaccines. Respondent wrote the exemption due to the "...higher than average  
23 risk for seizures given the family history..." Respondent exempted Patient 2 from DTaP, HepB,  
24 Hib, IPV, MMR, Tdap, VAR/VZV. However, Respondent did not verify the medical information  
25 and it is unclear which vaccine is thought to have caused the sequelae in the older sibling.  
26 Further, Respondent did not document a discussion regarding the benefits and risks for vaccine  
27 administration.

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1 PATIENT 3

2 16. On June 25, 2021, Respondent treated Patient 3<sup>4</sup>, who was then 5-years-old, for a  
3 routine annual checkup. During the course of that examination, Patient 3 did not receive any  
4 vaccinations. Patient 3 has high functioning autism and stopped vaccinating after diagnosis so has  
5 most of the early shots.

6 17. On July 1, 2021, the mother called Respondent to discuss immunizations.  
7 Respondent noted that the mother would like an exemption for her child as he "started losing  
8 milestones and falling behind on development and eventually was diagnosed as autistic.  
9 Symptoms started before 2 and Mom feels he had high fevers and some neurological regressions  
10 after [vaccine] shots."

11 18. On July 2, 2021, Respondent issued a permanent exemption that would expire "at the  
12 end of the selected grade span." Respondent submitted a vaccine exemption to CAIR-ME for the  
13 following vaccines: DTap, HepB, Hib, IPV, MMR, Tdap, and VAR.VZV.  
14 The medical basis for the exemption was "autism, neurological regression following  
15 immunization."

16 19. On August 16, 2021, the CDPH required additional documentation to complete an  
17 independent review of the vaccine exemption.

18 PATIENTS 4, 5, and 6

19 20. On August 9, 2021, Respondent submitted three requests to CAIR-ME to exempt  
20 Patients 4, 5, and 6 from the varicella vaccine. The exemption for Patient 4<sup>5</sup>, who was then 4-  
21 years-old, was a permanent vaccine exemption that expired "at the end of the selected grade  
22 span." Respondent wrote, "Child had chicken pox, verified. Should be exempt from Varicella  
23 vaccine only." There is no detailed description of the varicella infection documented or officially  
24 diagnosed in the medical records, nor is there laboratory evidence to show that Patient 4 had the  
25 viral infection. Respondent noted that Patient 4 is varicella "immune" based on anecdotal history  
26 of varicella infection by the patient's mother. Respondent stated that he only exempted Patient 4

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28 <sup>4</sup> The patient is identified as "Patient 3" in this Accusation to protect his privacy.

<sup>5</sup> The patient is identified as "Patient 4" in this Accusation to protect his privacy.

1 for the varicella immunization and that Patient 4 was up-to-date on all remaining immunization.  
2 According to the records, Patient 4 had not received rotavirus, two DTaP, one Hib, four  
3 pneumococcal, yearly influenza, and two hepatitis A immunizations.

4 21. The VAR/VZV exemption for Patient 5<sup>6</sup> was "permanent, expiring at the end of  
5 the selected grade span," and noted that the "Child had confirmed chicken pox. Exempt from  
6 Varicella vaccine." Patient 5 was 5-years-old at the time of the exemption and a note in the  
7 records stated that the "family is following alternate vaccine schedule." There is no detailed  
8 description of the varicella infection documented or officially diagnosed in the medical records,  
9 nor is there laboratory evidence to show that Patient 5 had the viral infection. Respondent noted  
10 that Patient 5 is varicella "immune" based on anecdotal history of varicella infection by the  
11 patient's mother. According to the records, Patient 5 had not received the rotavirus vaccine  
12 series, two DTaP vaccines, one Hib vaccine, the pneumococcal series, yearly influenza  
13 immunizations, and the hepatitis A vaccine series.

14 22. Patient 6<sup>7</sup> was an 8-years-old male when Respondent provided the permanent vaccine  
15 exemption for VAR/VZV that was to expire "at the end of the selected grade span." Respondent  
16 noted that Patient 6 "had confirmed chicken pox. Exempt from Varicella vaccine." There is no  
17 detailed description of the varicella infection documented or officially diagnosed in the medical  
18 records, nor is there laboratory evidence to show that Patient 6 had the viral infection. Respondent  
19 noted that Patient 6 varicella "immune" based on anecdotal history of varicella infection by the  
20 patient's mother. According to the records, Patient 6 had not received one MMR vaccine and one  
21 varicella vaccine.

22 23. On December 17, 2021, during an investigative interview, Respondent stated the  
23 entire family had chicken pox and the parents did not want their children, Patient 4, Patient 5, and  
24 Patient 6, to receive the varicella vaccine.

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27  
28 <sup>6</sup> The patient is identified as "Patient 5" in this Accusation to protect her privacy.

<sup>7</sup> The patient is identified as "Patient 6" in this Accusation to protect his privacy.

1 PATIENT 7

2 24. Patient 7<sup>8</sup> was 6-years-old when Respondent provided her a vaccine exemption for  
3 HepB on July 15, 2021. The exemption was "Permanent, expiring at the end of the selected grade  
4 span." Respondent wrote that "After Hepatitis B vaccine extreme fatigue for over a month with  
5 hair loss and Mental Status changes."

6 25. On February 27, 2020, Patient 7 received two vaccines. One of the vaccines was the  
7 first dose of Hepatitis B. Respondent did not document an adverse reaction at the time.

8 26. Medical records dated May 10, 2021, indicate that Patient 7 had a bad reaction to a  
9 vaccination. The adverse reaction to the Hepatitis B vaccine is noted to include fatigue and  
10 mental status changes where Patient 7 "was out of it, foggy and with new onset bedwetting."  
11 Patient 7 is also explained to have severe hair loss, localized inflammation, and pain at the  
12 injection site. The severe hair loss is not described in detail and from medical record review  
13 seems self-limited and resolved. The minor reactions of inflammation and pain at the injection  
14 site are self-limited and not indicated for vaccine exemption.

15 27. On December 17, 2021, Respondent indicated during his interview, that he only  
16 provided an exemption for the Hepatitis B vaccine and that the parents consented to all other  
17 recommended vaccines.

18 FIRST CAUSE FOR DISCIPLINE

19 **(Unprofessional Conduct, Gross Negligence, and Repeated Negligent Acts)**

20 28. Paragraphs 10 through 27 are incorporated by reference as if fully set forth

21 29. Respondent is subject to disciplinary action under section 2234, subdivisions (b), (c),  
22 and/or (d), because Respondent engaged in unprofessional conduct and/or gross negligence  
23 and/or repeated negligent acts and/or incompetence in his care and treatment of Patients 1 through  
24 7, including but not limited to:

25 30. Respondent issued vaccine exemptions to Patients 1 through 7, inclusive, who did  
26 not have any medical condition that constituted a contraindication based on the CDC, ACIP,  
27 and/or AAP guidelines;

28 <sup>8</sup> The patient is identified as "Patient 7" in this Accusation to protect her privacy.

1 31. Respondent issued vaccine exemptions to Patients 1 through 7, inclusive, based upon  
2 medically irrelevant and uncorroborated family and personal histories, which were not consistent  
3 with contraindications to vaccination recognized by or consistent with the immunization  
4 guidelines by the CDC, ACIP, and/or AAP guidelines;

5 32. Respondent inappropriately issued vaccine exemptions to Patients 1 through 7,  
6 inclusive, which were not based on bona fide medical conditions, but instead were intended to  
7 accommodate parental vaccine hesitancy and/or to enable the child to attend school without  
8 receiving compulsory immunizations.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Inadequate and Inaccurate Medical Record Keeping)**

11 33. Paragraphs 10 through 27 are incorporated by reference as it fully set forth

12 34. Respondent is subject disciplinary action under Code section 2266 in that he failed to  
13 maintain accurate and adequate documentation, in that Respondent failed to maintain adequate  
14 and accurate medical records for Patients 4, 5, 6, and 7.

15 **PRAYER**

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

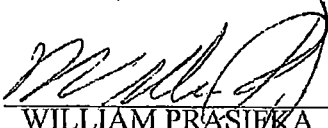
18 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 116531,  
19 issued to Evan Reece Buxbaum, M.D.;

20 2. Revoking, suspending or denying approval of Evan Reece Buxbaum, M.D.'s  
21 authority to supervise physician assistants and advanced practice nurses;

22 3. Ordering Evan Reece Buxbaum, M.D., to pay the Board the costs of the investigation  
23 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

25  
26 DATED: NOV 17 2022

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