

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

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

**On-Tat Lee, M.D.**

**Physician's & Surgeon's  
Certificate No. A 138659**

**Respondent.**

**Case No. 800-2019-057909**

**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 October 20, 2023.**

**IT IS SO ORDERED: September 20, 2023.**

**MEDICAL BOARD OF CALIFORNIA**



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

1 ROB BONTA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 JANNSEN TAN  
Deputy Attorney General  
4 State Bar No. 237826  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7549  
Facsimile: (916) 327-2247  
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 **ON-TAT LEE, M.D.**  
14 **139 S. Vista Hermosa St.**  
**Mountain House, CA 95391-2088**  
15 **Physician's and Surgeon's Certificate No.**  
16 **A 138659**

17 Respondent.

Case No. 800-2019-057909

OAH No. 2022090208

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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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 Interim Executive Director of the Medical Board  
25 of California (Board). He brought this action solely in his official capacity and is represented in  
26 this matter by Rob Bonta, Attorney General of the State of California, by Jannsen Tan, Deputy  
27 Attorney General.

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2. Respondent On-Tat Lee, M.D. (Respondent) is represented in this proceeding by attorney Matthew A. Brinegar, Esq., whose address is: Medical Arts Building 2000 Van Ness Avenue, Suite 512, San Francisco, CA 94109.

3. On or about October 2, 2015, the Board issued Physician's and Surgeon's Certificate No. A 138659 to On-Tat Lee, 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. 800-2019-057909, and will expire on January 31, 2025, unless renewed.

### **JURISDICTION**

4. Accusation No. 800-2019-057909 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 July 12, 2022. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2019-057909 is attached as exhibit A and incorporated herein by reference.

### **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-057909. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

8. Having had the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation  
3 No. 800-2019-057909, if proven at a hearing, constitute cause for imposing discipline upon his  
4 Physician's and Surgeon's Certificate.

5 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case  
6 or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right  
7 to contest those charges.

8 11. Respondent does not contest that, at an administrative hearing, Complainant could  
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-  
10 2019-057909, a true and correct copy of which is attached hereto as Exhibit A, and that he has  
11 thereby subjected his Physician's and Surgeon's Certificate, No. A 138659 to disciplinary action.

12 12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
13 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
14 Disciplinary Order below.

15 **RESERVATION**

16 13. The admissions made by Respondent herein are only for the purposes of this  
17 proceeding, or any other proceedings in which the Medical Board of California or other  
18 professional licensing agency is involved, and shall not be admissible in any other criminal or  
19 civil proceeding.

20 **CONTINGENCY**

21 14. This stipulation shall be subject to approval by the Medical Board of California.  
22 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
23 Board of California may communicate directly with the Board regarding this stipulation and  
24 settlement, without notice to or participation by Respondent or his counsel. By signing the  
25 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
26 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
27 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
28 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal

1 action between the parties, and the Board shall not be disqualified from further action by having  
2 considered this matter.

### 3 **ADDITIONAL PROVISIONS**

4 15. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
5 be an integrated writing representing the complete, final, and exclusive embodiment of the  
6 agreements of the parties in the above-listed matter.

7 16. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,  
8 including copies of the signatures of the parties, may be used in lieu of original documents and  
9 signatures and, further, that such copies shall have the same force and effect as originals.

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

### 13 **DISCIPLINARY ORDER**

#### 14 **A. PUBLIC REPRIMAND**

15 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A 138659  
16 issued to Respondent On-Tat Lee, M.D., shall be and is hereby publicly reprimanded pursuant to  
17 California Business and Professions Code, section 2227, subdivision (a) (4). This public  
18 reprimand, which is issued in connection Respondent's care and treatment of Patients A and B, as  
19 set forth in Accusation No. 800-2019-057909, is as follows:

20 "Respondent failed to select cases during his proctorship appropriate to his level of  
21 training."

22 **B. EDUCATION COURSE** Within 60 calendar days of the effective date of this Decision,  
23 Respondent shall submit to the Board or its designee for its prior approval, educational  
24 program(s) or course(s) which shall not be less than 40 hours, in addition to the 25 hours required  
25 for license renewal. The educational program(s) or course(s) shall be aimed at correcting any  
26 areas of deficient practice or knowledge and shall be Category I certified. The educational  
27 program(s) or course(s) shall be at Respondent's expense and shall be in addition to the  
28 Continuing Medical Education (CME) requirements for renewal of licensure. Following the

1 completion of each course, the Board or its designee may administer an examination to test  
2 Respondent's knowledge of the course. Within 12 months of the effective date of this Decision,  
3 Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in  
4 satisfaction of this condition.

5 Failure to successfully complete and provide proof of attendance to the Board or its  
6 designee of the educational program(s) or course(s) within 12 months of the effective date of this  
7 Decision, unless the Board or its designee agrees in writing to an extension of time, shall  
8 constitute general unprofessional conduct and may serve as the grounds for further disciplinary  
9 action.

10 **E. INVESTIGATION/ENFORCEMENT COST RECOVERY.** Respondent is hereby  
11 ordered to reimburse the Board its costs of investigation and enforcement, including, but not  
12 limited to, expert review, legal reviews, and investigation and other costs, in the amount of  
13 \$28,706.50 (twenty eight thousand seven hundred six dollars and fifty cents). Costs shall be  
14 payable to the Medical Board of California. Failure to pay such costs shall be considered  
15 unprofessional conduct and may serve as the grounds for further disciplinary action.

16 Payment must be made in full within 365 calendar days of the effective date of the Order,  
17 or by a payment plan approved by the Medical Board of California. Any and all requests for a  
18 payment plan shall be submitted in writing by Respondent to the Board. Failure to comply with  
19 the payment plan shall be considered unprofessional conduct and may serve as the grounds for  
20 further disciplinary action.

21 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility  
22 to repay investigation and enforcement costs, including expert review costs.

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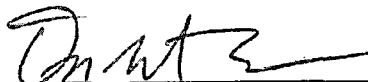
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1 ACCEPTANCE

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

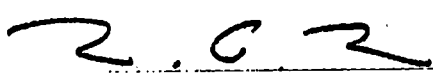
7  
8 DATED: 5/11/2023

  
9 ON-TAT LEE, M.D.  
Respondent

10 I have read and fully discussed with Respondent On-Tat Lee, M.D., the terms and  
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

12 I approve its form and content.

13 DATED: 5-11-23

  
14 MATTHEW A. BRINEGAR, ESQ.  
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: 5/12/2023

20 Respectfully submitted,

21 ROB BONTA  
Attorney General of California  
22 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General

23   
24 JANNSEN TAN  
25 Deputy Attorney General  
26 Attorneys for Complainant  
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**EXHIBIT A**

(Accusation No. 800-2019-057909)

1 ROB BONTA  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 JANNSEN TAN  
Deputy Attorney General  
4 State Bar No. 237826  
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Facsimile: (916) 327-2247  
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10 **DEPARTMENT OF CONSUMER AFFAIRS**  
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12 In the Matter of the Accusation Against:

Case No. 800-2019-057909

13 **ON-TAT LEE, M.D.**  
14 **139 S. Vista Hermosa St.**  
**Mountain House, CA 95391-2088**

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

15 **Physician's and Surgeon's Certificate**  
16 **No. A 138659,**

17 Respondent.

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20 **PARTIES**

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

24 2. On or about October 2, 2015, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number A 138659 to On-Tat Lee, M.D. (Respondent). The Physician's and Surgeon's  
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
27 expire on January 31, 2023, unless renewed.  
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 2227 of the Code states:

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

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

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

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

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

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

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

## STATUTORY PROVISIONS

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 COST RECOVERY

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

#### 24 FACTUAL ALLEGATIONS

25 7. Respondent is a physician and surgeon who was employed by The Permanente  
26 Medical Group (TPMG) in Santa Rosa, CA, at all times alleged herein.

27 8. On or about June 3, 2019, TPMG limited Respondent's surgery privileges on  
28 concerns that his surgical complication rate was higher than normal and based on proctor reports  
for the six surgeries performed on five patients. On all five proctor reports, Respondent was  
found to not possess the surgical skills to meet the standard of care.

9. On or about July 2, 2019, Respondent resigned from TPMG.

1 **Patient A<sup>1</sup>**

2 10. Patient A was an 86-year-old-female who presented with visually significant cataract  
3 on the right eye, causing difficulty with activities of daily living. She was the fourth patient  
4 treated by Respondent under proctorship. Her eye examination indicated that she had  
5 pseudoexfoliation, which is a bilateral generic condition causing weak lens zonules and an  
6 increased risk of complications during cataract surgery.

7 11. On or about May 21, 2019, Patient A underwent surgery. Respondent was the  
8 primary surgeon, and Dr. GY was the proctor. Operating room logs reveal that the surgery started  
9 at 2:16 pm and ended at 5:03 pm.

10 12. The operative report indicated that a lid speculum was placed in the eye, and a  
11 paracentesis was made temporally. Sugarcane solution was then placed in the anterior chamber.  
12 Viscoat was injected into the anterior chamber. A clear corneal incision was made temporally  
13 using a 2.75 keratome. A cystitome and Utrata forceps were used to complete a continuous  
14 curvilinear capsulorrhexis. Balanced saline solution was used to hydrodisect and hydrodelineate  
15 the lens. Phacoemulsification handpiece was brought into the eye and the lens removal was  
16 begun.

17 13. A zonular dehiscence occurred, requiring the placement of capsular tension rings.  
18 Shortly thereafter, a posterior capsular tear was noted, with dislocation of some lens fragments,  
19 which required an anterior vitrectomy, enlargement of the incision, and implantation of an  
20 anterior chamber lens. These complications necessitated a second surgery to remove the lens  
21 fragments. Respondent felt that his performance was negatively influenced by the lack of  
22 instruments that he was familiar with.

23 14. In his report dated May 22, 2019, Dr. GY gave Respondent a satisfactory rating on  
24 his performance, despite the complications and an unsatisfactory rating on his surgical skills.  
25 Dr. GY wrote:

26  
27  
28 <sup>1</sup> Patient names are withheld to protect patient confidentiality, and will be produced to  
Respondent in Discovery.

1 "1. Surgeon satisfied indication for procedure, documentation, time out,  
2 diagnosis, and communication. However, there seemed to be a lack of  
3 manual dexterity to complete the case in a safe and efficient manner. The  
4 phaco and nuclear (sic) was insufficient which led to the complications that  
5 were next.

6 "The case was a difficult surgery. Observation of the surgeon showed  
7 rough handling of the tissue that resulted in complications for this patient.  
8 There was a general uneasiness observing the surgeon operate.

9 "This case was complex surgery better suited for a senior surgeon. I think that  
10 if the surgeon recognized the complexity, the complication could have been  
11 avoided. If this surgeon were to continue to operate, easy cases should be  
12 started and not complex surgery."

13 **Patient B**

14 15. Patient B was a 65-year-old female who presented for left eye age related cataract  
15 surgery on May 22, 2019. Patient B was the fifth and last patient treated by Respondent under  
16 proctorship. Patient B complained of difficulties with activities of daily living secondary to  
17 decreased vision. Respondent was the primary surgeon, and Dr. YL, was the proctor.

18 16. The operative report indicated that a lid speculum was placed in the eye, and a  
19 paracentesis was made temporally. Lidocaine/phenylephrine was injected into the anterior  
20 chamber. Viscoat was injected into the anterior chamber. A clear corneal incision was made  
21 temporally using a 2.75 keratome. A cystitome and Utrata forceps were used to complete a  
22 continuous curvilinear capsulorrhexis. BSS was used to hydrodissect and hydrodelineate the lens.  
23 A Phacoemulsification handpiece was brought into the eye and lens was sculpted. While rotating  
24 the lens, a posterior capsule tear occurred, causing dislocation of the lens posteriorly into the  
25 vitreous, and necessitating an anterior vitrectomy. The operative report also indicated that a 3-  
26 piece posterior chamber lens was also opened.

1 17. In a second subsequent surgery to remove the lens fragments, the vitreoretinal  
2 surgeon's operative note confirmed that the posterior chamber lens was used.

3 18. Dr. YL wrote his proctor report dated June 4, 2019. Dr. YL wrote, "1. Intraoperative:  
4 complication (broken posterior capsule with lens dropping to the vitreous cavity) 2. Cataract  
5 surgery skill is not adequate. 3. Not ready to perform surgery independently." Respondent felt  
6 that his performance was negatively influenced by the lack of instruments he was more familiar  
7 with.

8 **CAUSE FOR DISCIPLINE**  
9 **(Repeated Negligent Acts and Lack of Knowledge)**

10 19. Respondent is subject to disciplinary action under section 2234, subdivision (c), of  
11 the Code, in that he committed repeated negligent acts and had a lack of knowledge in his care  
12 and treatment of Patients A and B. The circumstances are set forth in paragraphs 7 through 18  
13 above, which are incorporated by reference as if fully set forth. Additional circumstances are as  
14 follows:

15 20. Respondent committed repeated negligent acts and possessed a lack of knowledge  
16 which included, but was not limited to the following:

- 17 A. Respondent lacked manual dexterity and skill in the treatment of Patient A.  
18 B. Respondent lacked manual dexterity and skill in the treatment of Patient B.  
19 C. Respondent lacked the level of surgical skills that a residency trained ophthalmologist  
20 ordinarily possesses.

21 **PRAYER**

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


- 24 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 138659,  
25 issued to On-Tat Lee, M.D.;  
26 2. Revoking, suspending or denying approval of On-Tat Lee, M.D.'s authority to  
27 supervise physician assistants and advanced practice nurses;  
28

1        3.     Ordering On-Tat Lee, M.D., to pay the Board the costs of the investigation and  
2 enforcement of this case, and if placed on probation, the costs of probation monitoring;

3        4.     Ordering Respondent On-Tat Lee, M.D., if placed on probation, to provide patient  
4 notification in accordance with Business and Professions Code section 2228.1; and

5        5.     Taking such other and further action as deemed necessary and proper.

6  
7     DATED:         JUL 12 2022   

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

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