

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

In the Matter of the Accusation
Against:

David Opai-Tetteh, M.D.

Physician's and Surgeon's
Certificate No. A 53194

Respondent.

Case No.: 800-2020-065831

DECISION

The attached Stipulated Settlement and Disciplinary 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 27, 2023.

IT IS SO ORDERED: September 27, 2023.

MEDICAL BOARD OF CALIFORNIA



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

1 ROB BONTA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
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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:
13 DAVID OPAL-TETTEH, M.D.
884 Decatur Circle
14 Claremont, CA 91711-2206
15 Physician's and Surgeon's Certificate
No. A 53194,
16
17 Respondent.

Case No. 800-2020-065831

OAH No. 2023010876

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 **PARTIES**

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

25 2. David Opai-Tetteh, M.D. (Respondent) is represented in this proceeding by attorneys
26 Peter R. Osinoff, whose address is 355 South Grand Avenue, Suite 1750, Los Angeles, California
27 90071, and Femi J. Banjo, whose address is 401 South Main Street, Suite 212, Pomona,
28 California 91766.

1 3. On or about June 15, 1994, the Board issued Physician's and Surgeon's Certificate
2 No. A 53194 to Respondent. That license was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 800-2020-065831, and will expire on April 30, 2024, unless
4 renewed.

5 **JURISDICTION**

6 4. Accusation No. 800-2020-065831 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on December 8, 2022. Respondent filed his Notice of Defense
9 contesting the Accusation.

10 5. A copy of Accusation No. 800-2020-065831 is attached as Exhibit A and
11 incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2020-065831. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

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

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

25 **CULPABILITY**

26 9. Respondent understands and agrees that the charges and allegations in Accusation
27 No. 800-2020-065831, if proven at a hearing, constitute cause for imposing discipline upon his
28 Physician's and Surgeon's Certificate.

1 10. Respondent does not contest that, at an administrative hearing, complainant could
2 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
3 2020-065831, a true and correct copy of which is attached hereto as Exhibit A, and that he has
4 thereby subjected his Physician's and Surgeon's Certificate, No. A 53194 to disciplinary action.

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

8 **CONTINGENCY**

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

19 13. Respondent agrees that if he ever petitions for early termination or modification of
20 probation, or if an accusation and/or petition to revoke probation is filed against him before the
21 Board, all of the charges and allegations contained in Accusation No. 800-2020-065831 shall be
22 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
23 any other licensing proceeding involving Respondent in the State of California.

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

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 53194 issued
6 to Respondent DAVID OPAI-TETTEH, M.D. is revoked. However, the revocation is stayed and
7 Respondent is placed on probation for thirty-five (35) months on the following terms and
8 conditions:

9 1. **EDUCATION COURSE.** Within sixty (60) calendar days of the effective date of this
10 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
11 for its prior approval educational program(s) or course(s) which shall not be less than forty (40)
12 hours per year, for each year of probation. The educational program(s) or course(s) shall be
13 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified.
14 The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition
15 to the Continuing Medical Education (CME) requirements for renewal of licensure. Following
16 the completion of each course, the Board or its designee may administer an examination to test
17 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-
18 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

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

28 A medical record keeping course taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the course would have
3 been approved by the Board or its designee had the course been taken after the effective date of
4 this Decision.

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

8 3. CLINICIAN-PATIENT COMMUNICATION COURSE. Within sixty (60) calendar
9 days of the effective date of this Decision, Respondent shall enroll in a clinician-
10 patient communication course approved in advance by the Board or its designee. Respondent
11 shall provide the approved course provider with any information and documents that the approved
12 course provider may deem pertinent. Respondent shall participate in and successfully complete
13 the classroom component of the course not later than six (6) months after Respondent's initial
14 enrollment. Respondent shall successfully complete any other component of the course within
15 one (1) year of enrollment. The clinician-patient communication course shall be at Respondent's
16 expense and shall be in addition to the Continuing Medical Education (CME) requirements for
17 renewal of licensure.

18 A clinician-patient communication course taken after the acts that gave rise to the charges
19 in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
20 Board or its designee, be accepted towards the fulfillment of this condition if the course would
21 have been approved by the Board or its designee had the course been taken after the effective date
22 of this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than fifteen (15) calendar days after successfully completing the course, or not
25 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

26 4. PROFESSIONAL BOUNDARIES PROGRAM. Within sixty (60) calendar days
27 from the effective date of this Decision, Respondent shall enroll in a professional boundaries
28 program approved in advance by the Board or its designee. Respondent, at the program's

1 discretion, shall undergo and complete the program's assessment of Respondent's competency,
2 mental health and/or neuropsychological performance, and at minimum, a twenty-four (24) hour
3 program of interactive education and training in the area of boundaries, which takes into account
4 data obtained from the assessment and from the Decision(s), Accusation(s) and any other
5 information that the Board or its designee deems relevant. The program shall evaluate
6 Respondent at the end of the training and the program shall provide any data from the assessment
7 and training as well as the results of the evaluation to the Board or its designee.

8 Failure to complete the entire program not later than six (6) months after Respondent's
9 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
10 in writing to a later time for completion. Based on Respondent's performance in and evaluations
11 from the assessment, education, and training, the program shall advise the Board or its designee
12 of its recommendation(s) for additional education, training, psychotherapy and other measures
13 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
14 program recommendations. At the completion of the program, Respondent shall submit to a final
15 evaluation. The program shall provide the results of the evaluation to the Board or its designee.
16 The professional boundaries program shall be at Respondent's expense and shall be in addition to
17 the Continuing Medical Education (CME) requirements for renewal of licensure.

18 The program has the authority to determine whether or not Respondent successfully
19 completed the program.

20 A professional boundaries course 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 course would have
23 been approved by the Board or its designee had the course been taken after the effective date of
24 this Decision.

25 If Respondent fails to complete the program within the designated time period, Respondent
26 shall cease the practice of medicine within three (3) calendar days after being notified by the
27 Board or its designee that Respondent failed to complete the program.

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

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

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

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

16 8. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby
17 ordered to reimburse the Board its costs of investigation and enforcement, in the amount of
18 \$17,268.80 (seventeen thousand two hundred sixty-eight dollars and eighty cents). Costs shall be
19 payable to the Medical Board of California. Failure to pay such costs shall be considered a
20 violation of probation.

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

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

27 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
28 under penalty of perjury on forms provided by the Board, stating whether there has been

1 compliance with all the conditions of probation.

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

4 10. GENERAL PROBATION REQUIREMENTS.

5 Compliance with Probation Unit

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

7 Address Changes

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

13 Place of Practice

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

17 License Renewal

18 Respondent shall maintain a current and renewed California physician's and surgeon's
19 license.

20 Travel or Residence Outside California

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

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

27 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
28 available in person upon request for interviews either at Respondent's place of business or at the

1 probation unit office, with or without prior notice throughout the term of probation.

2 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
3 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
4 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
5 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine
6 as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours
7 in a calendar month in direct patient care, clinical activity or teaching, or other activity as
8 approved by the Board. If Respondent resides in California and is considered to be in non-
9 practice, Respondent shall comply with all terms and conditions of probation. All time spent in
10 an intensive training program which has been approved by the Board or its designee shall not be
11 considered non-practice and does not relieve Respondent from complying with all the terms and
12 conditions of probation. Practicing medicine in another state of the United States or Federal
13 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
14 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
15 considered as a period of non-practice.

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

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

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

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

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

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

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

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

1 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
2 a new license or certification, or petition for reinstatement of a license, by any other health care
3 licensing action agency in the State of California, all of the charges and allegations contained in
4 Accusation No. 800-2020-065831 shall be deemed to be true, correct, and admitted by
5 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
6 restrict license.

7
8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorneys, Peter R. Osinoff and Femi J. Banjo. I understand the stipulation
11 and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
12 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
13 bound by the Decision and Order of the Medical Board of California.

14
15 DATED: 7/7/23 

16 DAVID OPAL-TETTEH, M.D.
17 Respondent

18 I have read and fully discussed with Respondent David Opal-Tetteh, M.D. the terms and
19 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
20 I approve its form and content.

21 DATED: 7/7/2023 

22 PETER R. OSINOFF
23 FEMI J. BANJO
24 Attorneys for Respondent

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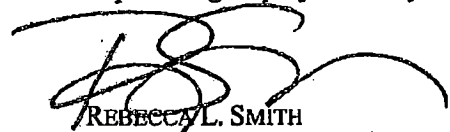
ENDORSEMENT

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

DATED: July 7, 2023

Respectfully submitted,

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



REBECCA L. SMITH
Deputy Attorney General
Attorneys for Complainant

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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
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11 In the Matter of the Accusation Against:

Case No. 800-2020-065831

12 **DAVID OPAI-TETTEH, M.D.**
13 **884 Decatur Circle**
Claremont, CA 91711

ACCUSATION

14 **Physician's and Surgeon's Certificate**
15 **No. A 53194,**

16 Respondent.

17 **PARTIES**

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

21 2. On or about June 15, 1994, the Medical Board issued Physician's and Surgeon's
22 Certificate Number A 53194 to David Opai-Tetteh, M.D. (Respondent). That license was in full
23 force and effect at all times relevant to the charges brought herein and will expire on April 30,
24 2024, unless renewed.

25 **JURISDICTION**

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

1 4. Section 2004 of the Code states:

2 The board shall have the responsibility for the following:

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

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

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

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

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

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

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

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

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

17 5. Section 2220 of the Code states:

18 Except as otherwise provided by law, the board may take action against all
19 persons guilty of violating this chapter. The board shall enforce and administer this
20 article as to physician and surgeon certificate holders, including those who hold
21 certificates that do not permit them to practice medicine, such as, but not limited to,
22 retired, inactive, or disabled status certificate holders, and the board shall have all the
23 powers granted in this chapter for these purposes including, but not limited to:

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

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

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

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1 6. Section 2227 of the Code states:

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

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

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

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

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

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

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

23 STATUTORY PROVISIONS

24 7. Section 2234 of the Code, states:

25 The board shall take action against any licensee who is charged with
26 unprofessional conduct. In addition to other provisions of this article, unprofessional
27 conduct includes, but is not limited to, the following:

28 (a) Violating or attempting to violate, directly or indirectly, assisting in or
abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more
negligent acts or omissions. An initial negligent act or omission followed by a
separate and distinct departure from the applicable standard of care shall constitute
repeated negligent acts.

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

(2) When the standard of care requires a change in the diagnosis, act, or
omission that constitutes the negligent act described in paragraph (1), including, but
not limited to, a reevaluation of the diagnosis or a change in treatment, and the

licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

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

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

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

8. Section 725 of the Code states:

(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

9. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

10. Section 125.3 of the Code states:

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

(b) In the case of a disciplined licensee that is a corporation or a partnership, the

1 order may be made against the licensed corporate entity or licensed partnership.

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

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

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

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

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

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

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

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

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 11. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
4 the Code, in that he engaged in gross negligence in the care and treatment of Patients 1, 2, and 3.¹
5 The circumstances are as follows:

6 **PATIENT 1:**

7 12. Patient 1, a then 43 year-old-female patient, began receiving dermatology care and
8 treatment at Advanced Dermatology & Plastic Surgery Medical Centers, Inc. (Advanced
9 Dermatology) in Lakewood in 2014. Respondent, a dermatologist at Advanced Dermatology,
10 provided care and treatment to Patient 1 for skin and mole evaluations on multiple occasions from
11 September 28, 2016 through March 18, 2020. Patient 1 stated that she had been seeing
12 Respondent for years for all of her skin cancers.

13 13. Respondent's progress notes, maintained in Patient 1's medical records from
14 Advanced Dermatology, are handwritten, very brief, and somewhat difficult to decipher.

15 14. On December 6, 2017, Respondent performed five skin biopsies on Patient 1 to rule
16 out malignancy. Respondent did not document any discussions with Patient 1 regarding the risks,
17 benefits, and alternatives to his treatment recommendation. There is no informed consent
18 documentation signed by Patient 1. No evidence of atypia or malignancy was found in three of
19 the biopsies. The fourth biopsy result reflected atypical (dysplastic) compound melanocytic
20 nevus with architectural disorder and mild cytologic atypia with no evidence of malignancy. The
21 result of the fifth biopsy was not set forth on page 1 of the 2-page pathology report. The second
22 page of the pathology report is not included in Patient 1's medical records. Respondent did not
23 document any discussions with Patient 1 regarding the biopsy results.

24 15. On February 20, 2018, Respondent performed four shave skin biopsies on Patient 1 to
25 rule out dysplasia. Respondent did not document any discussions with Patient 1 regarding the
26 risks, benefits, and alternatives to his treatment recommendation. There is no informed consent

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28 ¹ For privacy purposes, the patients in this Accusation are referred to as Patients 1, 2, and 3, with
their identities disclosed to Respondent in discovery.

1 documentation signed by Patient 1. No significant atypia was seen on three of the biopsies. The
2 fourth biopsy showed solar lentigo,² Respondent did not document any discussions with Patient 1
3 regarding the biopsy results.

4 16. On October 11, 2018, Respondent performed two skin biopsies on Patient 1 to rule
5 out malignancy. Respondent did not document any discussions with Patient 1 regarding the risks,
6 benefits, and alternatives to his treatment recommendation. There is no informed consent
7 documentation signed by Patient 1. No evidence of atypia or malignancy was reported on
8 October 15, 2018. Respondent did not document any discussions with Patient 1 regarding the
9 biopsy results.

10 17. On December 20, 2019, Respondent performed four skin biopsies for irregular moles
11 on Patient 1. Respondent did not document any discussions with Patient 1 regarding the risks,
12 benefits, and alternatives to his treatment recommendation. There is no informed consent
13 documentation signed by Patient 1. There is no pathology report in Patient 1's medical records
14 for the four skin biopsies nor did Respondent document any discussion with Patient 1 regarding
15 the biopsy results.

16 18. On February 4, 2020, Respondent performed three shave skin biopsies on Patient 1 to
17 rule out malignancy. Respondent did not document any discussions with Patient 1 regarding the
18 risks, benefits, and alternatives to his treatment recommendation. There is no informed consent
19 documentation signed by Patient 1. The right thigh shave biopsy was reported as
20 dermatofibroma.³ The upper scapular shave biopsy was reported as lentiginous junctional nevus
21 with mild atypical melanocytic hyperplasia⁴ with a clear histologic tissue edge. The upper spinal
22 area shave biopsy was reported as intradermal melanocytic nevus present at the histologic tissue
23 edge with no atypia seen. Respondent did not document any discussions with Patient 1 regarding
24 the biopsy results.

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26 ² Solar lentigo, also called liver spots, is a harmless patch of flat tan, brown, or black spots on the
skin that are common with age.

27 ³ Dermatofibroma is a noncancerous skin growth.

28 ⁴ Atypical melanocytic hyperplasias are pigmented moles that contain abnormal cells.

1 19. On March 18, 2020, Respondent performed four shave skin biopsies. Respondent did
2 not document any discussions with Patient 1 regarding the risks, benefits, and alternatives to his
3 treatment recommendation. There is no informed consent documentation signed by the patient.
4 The right upper paraspinal shave biopsy was reported as compound nevus with mild atypical
5 melanocytic hyperplasia without margin involvement. The right trapezius shave biopsy was
6 reported as seborrheic keratosis.⁵ The right scapular lower lateral shave biopsy was reported as
7 solar lentigo. The right scapular shave biopsy was reported as a lentiginous junctional nevus with
8 mild atypical melanocytic hyperplasia, with margins involved.

9 20. At the time of his interview with the Board on February 15, 2022, Respondent stated
10 that atypical melanocytes is an “alarming bell” and if the margins are involved, he calls the
11 patient immediately to notify them that further surgery is necessary to clear the margins. There is
12 no documentation in Patient 1’s medical records reflecting that Respondent contacted Patient 1
13 regarding the “mild atypical melanocytic hyperplasia with margins involved” found on pathology.

14 21. When a patient has benign skin lesions, including nevi with mild atypia, no further
15 treatment is necessary. While annual screening may be warranted, regular monitoring by a
16 dermatologist is not necessary. Patient 1’s medical records reflect twenty-two skin biopsies
17 performed by Respondent. Pathology reports for eighteen of the skin biopsies reflect that the skin
18 samples were benign or moles with mild atypia. Patient 1’s medical records do not reflect any
19 diagnosis of skin cancer, though Patient 1 stated she was being treated by Respondent for skin
20 cancer. Respondent excessively treated Patient 1. This is a simple departure from the standard of
21 care.

22 22. When a biopsy is performed, the standard of care requires that the ordering physician
23 communicate the biopsy results to the patient and document that discussion in the patient’s chart.
24 Respondent failed to document any discussions with Patient 1 regarding any of the biopsy results.
25 This is a simple departure from the standard of care.

26 23. On March 19, 2020, Patient 1 made a complaint with the Medical Board of
27 California, stating that she had been Respondent’s patient for over a year and had received

28 ⁵ Seborrheic keratosis is a common noncancerous (benign) skin growth.

1 treatment from Respondent for her skin cancer. She stated that during that time, Respondent was
2 inappropriate, made sexual comments, solicited a romantic relationship and touched areas where
3 treatment was not being performed. Patient 1 said that Respondent would tell her that he liked
4 her, that she was pretty, and that he wanted to go sailing with her. Patient 1 stated that
5 Respondent had called and texted her regarding non-medical issues. Patient 1 stated that
6 Respondent would hug her at the time of her visits causing Patient 1 to bring her husband or
7 daughter to her appointments. Patient 1 stated that at a visit when her husband was present,
8 Respondent told Patient 1's husband that they should switch wives. Patient 1 stated that at the
9 time of her last visit with Respondent, he hugged her and grabbed her breast.⁶

10 24. The standard of care requires that physician maintain a professional demeanor during
11 patient visits. A patient presents to a physician for medical care, not friendship. It is
12 inappropriate for a physician to attempt to initiate a personal relationship with a patient. There
13 are individual circumstances where a mutual, friendly, non-sexual relationship develops between
14 a physician and a patient; however, this needs to be clearly mutual.

15 25. It is inappropriate for a physician to tell a patient that she is pretty, ask a patient to
16 meet outside of the medical office setting, or hug a patient. Under no circumstance is it
17 appropriate for a physician to squeeze a patient's breast and hug to say goodbye.

18 26. Casual conversation can occur at a medical appointment; however, conversations of a
19 sexual nature, unrelated to the medical issue at hand, are not appropriate.

20 27. Respondent committed a simple departure from the standard of care in discussing
21 how pretty the patient was and asking her to meet him outside of the office.

22 28. Respondent committed a simple departure from the standard of care in hugging
23 Patient 1.

24 29. Respondent committed a simple departure from the standard of care in suggesting a
25 wife swap with Patient 1's husband.

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28 ⁶ At the time of his interview with the Board, Respondent denied Patient 1's allegations, other than possibly sending a Merry Christmas and Happy New Year group text to all his patients.

1 PATIENT 2:

2 30. Patient 2 is Patient 1's daughter. Patient 2 accompanied Patient 1 to some of Patient
3 1's dermatology appointments. Patient 2 stated that when Respondent learned that Patient 2 was
4 a law student, he said something along the lines of, "I'm going to need you to help me because
5 I'm going to get myself into a lot of trouble with your mom. She's way prettier than my wife."

6 31. While sometimes casual conversation can put an anxious patient at ease, discussions
7 with patients at medical appointments should revolve around medical care. The physician must
8 maintain a professional demeanor. Respondent's comments to Patient 2 about getting in trouble
9 with Patient 2's mother and Patient 1 being pretty have no medical basis and are inappropriate.
10 This is a simple departure from the standard of care.

11 32. Patient 2's medical records from Advanced Dermatology reflect that Patient 2
12 presented to Respondent on August 17, 2016, for an evaluation of a neoplasm on her right
13 clavicle. Patient 2 next saw Respondent on September 28, 2016, at which time Respondent
14 documented that he performed a biopsy of the neoplasm on Patient 2's right clavicle. Respondent
15 did not document any discussion with Patient 2 regarding the risks, benefits, and alternatives to
16 his treatment recommendation. There is no informed consent documentation signed by the
17 patient. There is no pathology report in Patient 2's medical records for the September 28th biopsy
18 and Respondent did not document any discussion with Patient 2 regarding the biopsy results.

19 33. Patient 2 states that she saw Respondent in February 2020, for a foot rash and that
20 Respondent prescribed glycopyrrolate⁷ for her foot rash. Patient 2's medical records from
21 Advanced Dermatology contain a pathology report that reflects that on February 25, 2020, nail
22 fragments from Patient 2's left foot were submitted for evaluation. There is no progress note for
23 a February 2020 visit. On March 26, 2020, the nail fragments were reported as benign and
24 negative for diagnostic fungal organisms.

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27 ⁷ Glycopyrrolate, a cerebral palsy medication, is also commonly used to decrease sweating,
28 especially on the palms and soles and can be prescribed for foot rashes. Foot rashes can be from fungus,
and they can be from sweating.

1 34. The standard of care for medical visit documentation requires that the physician
2 document a chief complaint, history of present illness, physical examination, assessment, and
3 plan. A discussion of treatment options and alternatives should also be documented.

4 35. Although Respondent submitted a sampling of Patient 2's toe nails for tissue
5 pathology and prescribed medication for her complaint of a foot rash, he failed to document
6 Patient 2's visit regarding her foot rash. This is a simple departure from the standard of care.

7 **PATIENT 3:**

8 36. On April 6, 2020, Patient 3, a then 29-year-old female patient, presented to
9 Respondent with complaints of an itchy rash for 2 weeks. In Patient 3's medical records,
10 Respondent documented that the patient had a history of sensitive skin and was allergic to
11 penicillin and sulfur. He noted that Patient 3 underwent dental treatment with erythromycin three
12 weeks prior. Respondent documented a physical examination, noting a maculopapular rash of the
13 trunks and limbs. Respondent's assessment was that the patient had a hypersensitivity reaction.
14 Respondent performed a punch biopsy of the left cubital forearm and left lower forearm. He
15 prescribed Prednisone (a corticosteroid), Lidex (a topical steroid), Periactin (an antihistamine),
16 Singulair (an anti-inflammatory), and calcium.

17 37. Patient 3 stated that at the time of Respondent's April 6, 2020 evaluation of her,
18 Respondent inappropriately touched her breast and stated, "I will have to touch you all over like
19 on your legs on your boobs," even though he was taking a biopsy on her arm. Patient 3 also
20 stated that after the procedure, Respondent ran his finger down her entire back and hip and said,
21 "see you later."

22 38. The dermatopathology report reflected dermatofibroma of the left cubital forearm and
23 superficial perivascular dermatitis of the left lower forearm. The dermatopathologist noted that
24 the histopathologic differential diagnosis for the superficial perivascular dermatitis includes
25 urticaria, a viral exanthema, a light reaction, an arthropod bite reaction, and a drug eruption and
26 that "[c]orrelation with total clinical information is essential."

27 39. Patient 3 had a follow up appointment scheduled for April 20, 2020. She cancelled
28 the appointment and did not have any further contact with Respondent.


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PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 53194, issued to David Opai-Tetteh, M.D.;
2. Revoking, suspending or denying approval of David Opai-Tetteh, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering David Opai-Tetteh, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: DEC 08 2022



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

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